

BELLSOUTH PUBLIC COMMUNICATIONS, INC.
VERIFIED TESTIMONY OF ROBERT L. KIRKLAND
BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
DOCKET NO. 2003-77-C
DECEMBER 11, 2003

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH PUBLIC COMMUNICATIONS, INC. ("BSPC") AND YOUR BUSINESS ADDRESS.

A. My name is Robert L. Kirkland, and my position is Manager, BellSouth Public Communications, Inc. My business address is 75 Bagby Drive, Homewood, Alabama 35209.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I started working with South Central Bell, which is now BellSouth Telecommunications, Inc. ("BST"), in 1971. Since 1974, I have held many payphone-related positions within the BellSouth family of companies, including working in staff support, business planning and contract support, managing the contract administration group for BSPC, and managing the sales support staff for BSPC. From 1999 to the present, I have managed BSPC's coin center operations, operations center, and repair center.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to provide information in support of BSPC's Application for Approval to Divest Itself of its Assets that was filed in this docket on March 11, 2003.

Q. PLEASE DESCRIBE BSPC.

A. BSPC is a payphone service provider that offers certain payphone services throughout South Carolina pursuant to certificates the Commission granted or approved in Order No. 97-65 in Docket No. 85-150-C, and in Order No. 97-268 in Docket No. 97-047-C.

Q. HOW DID BSPC COME INTO EXISTENCE?

In 1996, the Federal Communications Commission ("FCC") ruled that incumbent local exchange companies ("ILECs") are free to provide payphone services "using structurally separate affiliates if they choose to do so."¹ To the extent that a Bell Operating Company ("BOC") decided to provide payphone services through a structurally separate affiliate, the FCC specified the assets that were to be transferred from the BOC to the separate affiliate,² and it specified the accounting treatment to be accorded those transferred assets.³ BellSouth decided to provide payphone service through a separate affiliate, BSPC, in compliance with these FCC requirements.

¹ See Report and Order, *In the Matter of Implementation of the Pay Telephone Reclassification Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC 96-388 11 F.C.C.R. 20,541 at ¶157 (September 20, 1996) ("Payphone Order")(emphasis added).

² *Id.* at ¶¶ 159-60.

³ *Id.* at ¶¶161-71.

Accordingly, in 1997, this Commission entered an Order stating that “[BST’s] application to transfer its South Carolina payphone assets to BSPC . . . is hereby approved.”⁴ The Commission also entered an Order granting BSPC’s request for certification to “sell, vend, and install coin or coinless telephones in South Carolina”⁵ Finally, the Commission entered an Order granting BSPC a Certificate of Public Convenience and Necessity “to provide collect-only call capability for inmate and operator services (local and intraLATA) to confinement facilities in South Carolina, using automated Company owned telephones and alternate operator service to the general public through Company owned payphones on a local and intraLATA basis.”⁶

Q. PLEASE DESCRIBE THE PAYPHONE MARKETPLACE IN SOUTH CAROLINA.

⁴ Order Approving Asset Transfer, *In Re Application of BellSouth Telecommunications, Inc. for approval to Transfer its Pay Telephone Assets to BellSouth Public Communications, Inc.*, Order No. 97-311 in Docket No. 97-046-C (April 15, 1997).

⁵ Order Granting Certification, *In Re: Request of BellSouth Public Communications, Inc., 75 Bagby Drive, Homewood, AL 35209, for Certification to Sell, Vend, and Install Coin or Coinless Telephones in South Carolina*, Order No. 97-65 in Docket No. 85-150-C at 1 (January 23, 1997).

⁶ Order Approving Certificate, *In Re: Application of BellSouth Public Communications, Inc. for a Certificate of Public Convenience and Necessity to Provide Alternate Operator and Inmate Telecommunications Services within the State of South Carolina*, Order No. 97-268 in Docket No. 97-047-C at 3 (April 1, 1997). The FCC also required BOCs like BellSouth to file comparably efficient interconnection (“CEI”) plans with the FCC “describing how they will comply with the Computer III unbundling, CEI parameters, accounting requirements, CPNI requirements as modified by Section 222 of the 1996 Act, network disclosure requirements, and installation, maintenance, and quality nondiscrimination requirements.” See Payphone Order at ¶199. See also *Id.* at ¶¶202-207. BellSouth filed its CEI plan with the FCC in compliance with these requirements, and the FCC entered an order approving BellSouth’s plan. See Order, *In the Matter of BellSouth Corporation’s Offer of Comparably Efficient Interconnection to Payphone*

A. The payphone marketplace in South Carolina is highly competitive, and BSPC is only one of many payphone service providers competing in that market. This is not surprising. Seven years ago, the FCC concluded that "incumbent LEC payphones must be deregulated, detariffed and classified as CPE for regulatory purposes."⁷ In reaching this conclusion, the FCC stated that "the market for payphone CPE is competitive," and that "it is not in the public interest to continue to treat LEC payphones as regulated equipment, while treating independent payphones as CPE, and that deregulation of payphones is consistent with the procompetitive approach set forth in Section 276 [of the 1996 Act]."⁸ The FCC also noted that "the market for payphone CPE is competitive and LECs do not have any specific advantage in marketing payphone services in a deregulated payphone market."⁹

Q. WHY IS BSPC EXITING THIS COMPETITIVE MARKETPLACE?

A. BSPC is exiting the marketplace as a result of continuing declines in payphone usage. Increasing numbers of payphone users are choosing other alternatives such as wireless communications and personal communications devices in lieu of payphone services. BSPC's exit from the payphone marketplace will allow BellSouth to sharpen its focus and

Service Providers, CC Docket No. 96-128, FCC 97-792 (April 15, 1997) ("BellSouth CEI Order").

⁷ See Payphone Order at ¶143 (emphasis added). CPE stands for "customer premise equipment". See Order, *In the Matter of Wisconsin Public Service Commission*, 17 FCC Rcd. 2051 at ¶11.

⁸ *Id.* (emphasis added).

⁹ *Id.* at ¶149.

direct its resources on its core broadband, Internet and digital network offerings, as well as domestic and international lines of business for wireless, data, and voice services.

Q. WHEN DOES BSPC INTEND TO COMPLETELY EXIT THE MARKETPLACE?

A. BPSC intends to completely exit the payphone business in South Carolina by late in the first quarter of 2004. After BSPC has ceased providing any payphone services in South Carolina, BSPC plans to seek withdrawal of the certificates the Commission granted or approved in Order No. 97-65 in Docket No. 85-150-C and in Order No. 97-268 in Docket No. 97-047-C by way of an appropriate filing in this docket.

Q. HAS BSPC INFORMED THE PUBLIC OF ITS INTENT TO EXIT THE MARKETPLACE?

A. Yes. Since February 2001, BSPC has distributed various press releases that have resulted in newspaper articles in South Carolina and in many other states that address BSPC's intent to exit the market. Exhibit RLK-1 contains representative samples of such newspaper articles. Information regarding BSPC's intent to exit the marketplace also has been posted on the following website: <http://www.bellsouth.com/public/>.

Q. HAS BSPC INFORMED LOCATION OWNERS OF ITS INTENT TO EXIT THE MARKETPLACE?

A. Yes. BSPC has notified its customers of its intentions on several occasions beginning as early as February 2001 and most recently during the first two weeks of December 2003. Exhibit RLK-2 contains representative samples of such correspondence.

Q. IS BSPC WORKING TO MAKE A LOCATION PROVIDER'S TRANSITION FROM BSPC TO ANOTHER PAYPHONE SERVICE PROVIDER A SMOOTH ONE?

A. Yes. A group within BSPC is working with other payphone service providers that have been selected by a location provider in order to make the transition from BSPC to the new provider a smooth one. This group offers the new provider the option of purchasing the existing BSPC equipment (after it has been de-branded) at a discounted rate and the option of transferring the existing line and telephone number to the new provider. This group also works with the new provider to coordinate the disconnection of BSPC's equipment with the connection of the new provider's equipment in an attempt to provide continuity of service for the location provider. Since February 2001, when BSPC first announced its plans to exit the payphone market, BSPC has transitioned thousands of payphone stations to other payphone service providers in South Carolina. BSPC will continue to work with the other payphone service providers in South Carolina in this manner until all BSPC payphones have been removed.

Q. AS BSPC GOES ABOUT EXITING THE COMPETITIVE PAYPHONE MARKETPLACE IN SOUTH CAROLINA, WHAT WILL HAPPEN TO BSPC'S ASSETS?

- A. In order to cease operations, divest its assets, and exit the payphone business in South Carolina, BSPC is selling some of its payphones in place to other payphone service providers or to location providers, after de-branding all equipment. Additionally, BSPC is selling some of its payphones in bulk (after de-branding) to other equipment providers. Some of the sets involved in such sales will remain in place, as described above, and some are being removed from the location, de-branded, and sold to the buyer. BSPC is also offering payphones for sale through the BellSouth Pioneers organization. Finally, BSPC is disposing of any remaining payphones by selling parts to third parties and junking the remaining unsold parts.

BSPC intends to transfer other support type equipment and assets (such as desks, chairs, etc.) to BST, if needed, in full compliance with affiliate transaction rules. Any remaining support assets will be sold or disposed of, as described above for the payphone equipment.

- Q. WILL BSPC'S EXIT FROM THE COMPETITIVE PAYPHONE MARKETPLACE AFFECT THE ABILITY OF ANY PAYPHONE SERVICE PROVIDER TO CONTINUE PURCHASING PAYPHONE ACCESS LINES FROM BST, OTHER LOCAL EXCHANGE COMPANIES ("LECS"), OR COMPETITIVE LOCAL EXCHANGE COMPANIES ("CLECS")?

- A. No. BSPC's decision to exit the competitive payphone marketplace in South Carolina will not affect any payphone service provider's ability to order access lines that it can

attach to its payphone sets and other customer premise equipment ("CPE") in order to provide payphone services to the public. BSPC does not provide these access lines in South Carolina, or in any other state. Instead, BST, other LECs, and CLECs offer tariffed payphone access lines to BSPC and other payphone service providers on a nondiscriminatory basis.¹⁰ BSPC and other payphone service providers then attach these access lines to their payphone sets and other CPE in order to provide payphone services to the public.

The FCC has made it clear that payphone access lines are separate and distinct from the type of payphone services that are offered by payphone service providers like BSPC. The FCC, for instance, required LECs to unbundle basic transmission services (such as payphone access lines) from CPE (such as the payphone sets), and it required incumbent local exchange companies ("ILECs") like BST to set rates for intrastate payphone-specific services in accordance with the FCC's requirements.¹¹ When this Commission applied the FCC's rulings to BST's rates for payphone access lines, it ordered BST to significantly reduce those rates and to pay refunds to payphone service providers.¹² In a subsequent Order, the Commission approved a BST tariff filing that further reduced

¹⁰ See, e.g., BST's South Carolina General Subscriber Service Tariff A7.4.

¹¹ See Payphone Order at ¶146.

¹² See Order Setting Rates for Payphone Lines and Associated Features, *In Re Request of BellSouth Telecommunications, Inc. for Approval of Revisions to its General Subscriber Service Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order No. 1999-285 in Docket No. 97-124-C (April 19, 1999); Order Ruling on Requests for Reconsideration and Clarification, *In Re Request of BellSouth Telecommunications, Inc. for Approval of Revisions to its General Subscriber Service Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and*

BST's rates for payphone access lines to even lower rates.¹³ These low payphone access line rates remain in effect today.

Q. HAS THE FCC ADDRESSED THE ABILITY OF A PAYPHONE SERVICE PROVIDER LIKE BSPC TO EXIT THE MARKETPLACE IF IT CHOOSES TO DO SO?

A. Yes. The FCC has made it clear that a payphone service provider like BSPC is free to exit the market if it chooses to do so. Section 276 of the Act addresses the provision of payphone services, and it requires the FCC to adopt regulations implementing its provisions. Section 276 provides that "to the extent that any State requirements are inconsistent with the [FCC's] regulations, the [FCC's] regulations on such matters shall preempt such State requirements."¹⁴

Q. HAS THE FCC ADOPTED ANY REGULATIONS REGARDING A PAYPHONE SERVICE PROVIDER'S ABILITY TO EXIT THE MARKET?

A. Yes. The FCC adopted a regulation that states, "Each state must review and remove any of its regulations applicable to payphones and payphone service providers that impose

Compensation Provisions of the Telecommunications Act of 1996, Order No. 1999-497 in Docket No. 97-124-C (July 19, 1999).

¹³ See Order Reducing PTAS Rate, *In Re: Request of BellSouth Telecommunications, Inc. for Approval of Revisions to its General Subscriber Service Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order No. 2001-1054 in Docket No. 97-124-C (December 4, 2001).

market entry or exit requirements."¹⁵

Q. HAS THE FCC SPECIFICALLY ADDRESSED A PAYPHONE SERVICE PROVIDER'S ABILITY TO EXIT THE MARKETPLACE?

A. Yes. The FCC stated that inhibiting a payphone service provider's ability to exit the marketplace is simply bad policy.¹⁶ The FCC, for example, noted that the competition that existed in the payphone market in 1996 "has been significantly distorted by government regulation of prices, regulatory barriers to entry and exit, as well as by significant subsidies from other telecommunications services."¹⁷ Recognizing the existence of many state "requirements that must be fulfilled before a [payphone service provider] can enter or exit the payphone marketplace," the FCC concluded, "that these state regulations are barriers to a fully competitive payphone market"¹⁸ The FCC stated, "ease of entry and exit in this market will foster competition and allow the market, rather than regulation, to dictate the behavior of the various parties in the payphone industry."¹⁹ The FCC, therefore, concluded that the States are required to remove "in particular, those rules that impose market entry or exit requirements."²⁰

Several entities, including various State commissions, asked the FCC to reconsider this

¹⁴ See 47 U.S.C. §276(c)(emphasis added).

¹⁵ See 47 C.F.R. §64.1330(a).

¹⁶ Conversely, the FCC has noted that eliminating requirements that inhibit the ability to exit the payphone market is good policy. See, e.g., Payphone Order at ¶12.

¹⁷ Payphone Order at ¶13.

¹⁸ *Id.* at ¶59.

¹⁹ *Id.*

²⁰ *Id.* at ¶60.

regulation and its reasoning supporting it, but the FCC declined. In addressing these requests, the FCC stated that:

burdensome state entry and exit requirements would be inconsistent with the rules we have adopted to implement the congressional mandate embedded generally in Section 276 of the Act, and, more specifically, in the requirements of Section 276(b)(1)(A) to ensure fair compensation for each and every call using a payphone. For these reasons, we are satisfied that our directive to the states to eliminate such burdens is within the preemption authority granted to us by Congress in Section 276(c). Accordingly, we deny requests by the states that we reconsider our conclusions in this regard.²¹

Q. ARE YOU AWARE OF ANY STATE COMMISSIONS THAT HAVE APPLIED THESE FCC DIRECTIVES TO STATE RULES THAT CONSTITUTE BARRIERS TO EXIT FROM THE PAYPHONE MARKETPLACE?

A. Yes. After the FCC entered these Orders, the Indiana Utility Regulatory Commission reviewed its existing regulations to determine whether they were consistent with the FCC's decision. One of those regulations required each telephone utility to supply at least one coin-operated public telephone in each exchange that the utility served. After applying the principles set forth in the FCC's Payphone Orders to that rule, the Indiana Commission entered an Order stating:

we agree that [the rule] is an exit barrier, and as such is no longer enforceable. We instruct our General Counsel to take the necessary steps to have this regulation deleted from our Service Standards.

Exhibit RLK-3 is a copy of this Order.

²¹ Order on Reconsideration, *In the Matter of Implementation of the Pay Telephone Reclassification Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC 96-439, 11 FCC Rcd. 21,233 at ¶139 (November 8, 1996) ("Payphone Reconsideration Order")(emphasis added).

Q. ARE PAYPHONE SERVICE PROVIDERS SEEKING TO ENTER THE MARKET IN SOUTH CAROLINA?

A. Yes. Exhibit RLK-4 includes pages from various agenda the Commission has issued since January 1, 2003. This exhibit shows that in the past year, at least 15 payphone service providers have sought to enter the payphone marketplace in South Carolina.

Q. ARE PAYPHONE SERVICE PROVIDERS SEEKING TO EXIT THE MARKET IN SOUTH CAROLINA?

A. Yes. Exhibit RLK-4 shows that in the past year, at least 26 payphone service providers have sought to exit the payphone marketplace in South Carolina.

Q. TO THE BEST OF YOUR KNOWLEDGE, HAS THE COMMISSION IMPOSED ANY CONDITIONS ON THE ABILITY OF THESE OTHER PAYPHONE SERVICE PROVIDERS TO EXIT THE MARKET IN SOUTH CAROLINA?

A. No, not to my knowledge.

Q. HAS ANY OTHER STATE COMMISSION IN BELLSOUTH'S REGION ADDRESSED BSPC'S ABILITY TO EXIT THE PAYPHONE MARKETPLACE?

A. Yes. On November 20, 2003, the Alabama Public Service Commission issued an Order granting BSPC's request to divest its assets and cease its operations in Alabama. The Commission specifically found BSPC's request "to be consistent with the public interest, convenience and necessity." Exhibit RLK-5 is a copy of that Order.

Q. DID THE ALABAMA COMMISSION'S ORDER IMPOSE ANY CONDITIONS ON BSPC'S ABILITY TO EXIT THE PAYPHONE MARKET?

A. No, it did not.

Q. WHAT IS BSPC ASKING THE COMMISSION TO DO AT THIS TIME?

A. BSPC is asking the Commission to enter an order approving BSPC's application to immediately divest itself of its assets.

Q. WHAT DOES BSPC PLAN TO DO AFTER IT HAS COMPLETELY EXITED THE MARKETPLACE AND STOPPED PROVIDING ANY PAYPHONE SERVICE IN SOUTH CAROLINA?

A. At that time, BSPC plans to seek withdrawal of the certificates the Commission granted or approved in Order No. 97-65 in Docket No. 85-150-C and in Order No. 97-268 in Docket No. 97-047-C by way of an appropriate filing in this docket.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.

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AFFIDAVIT

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

Before me, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid personally came and appeared Robert L. Kirkland who, being by me first duly sworn, deposed and said that:

1. I, Robert L. Kirkland, am Manager, BellSouth Public Communications, Inc.
2. I have read my foregoing pre-filed testimony in Docket No. 2003-77-C, which is dated December 11, 2003 and which consists of 14 pages and 5 Exhibits.
3. The contents of my foregoing testimony are true to the best of my knowledge.


AFFIANT

Sworn to and subscribed before me this 9th day of December, 2003.


NOTARY PUBLIC

My Commission Expires: _____

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MY COMMISSION EXPIRES: Dec 16, 2004
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EXHIBIT RLK-1



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State, The (Columbia, SC)

February 3, 2001

Section: FRONT

Edition: FINAL

Page: A1

S.C. PAY PHONES ARE ENDANGERED SPECIES

DAVE L'HEUREUX, Staff Writer

Finding a pay telephone in the Southeast could become a lot tougher in the next two years.

BellSouth said Friday it will get out of the pay phone business by the end of 2002 in order to concentrate on domestic wireless and other services.

The decision will end **BellSouth** service to about 143,000 pay phones in the Southeast, including 10,401 pay phones in South Carolina.

Experts warned that **BellSouth's** decision could greatly reduce the availability of pay phones unless independent providers fill in the void. It also could hurt poorer neighborhoods.

"I think that's a real problem," said Columbia resident Helen Anderson, who had just finished a call on a **BellSouth** pay phone off Rosewood Drive. "**BellSouth** is everywhere. What if you had to find a pay phone in a hurry?"

A **BellSouth** executive said the use of **public** pay phones has dropped dramatically since 1998, as more people use cell phones and other wireless **communication** devices.

"This decision will allow **BellSouth** to focus on its core broadband, Internet and digital network offerings," said Charlie Coe, president of **BellSouth** Network Services.

Coe said more and more **BellSouth** customers are relying on wireless telephones and interactive pagers, making pay phones less popular.

Pay phones are a primary means of telecommunication in poor neighborhoods, leading to speculation that industry emphasis on promoting wireless telephones could be economically discriminatory.

"We're concerned what this means for the number of (pay phone) locations around the state,"



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State, The (Columbia, SC)

August 18, 2001

Section: BUSINESS

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Page: B7

FYI - BELL SOUTH EXTENDS PAY PHONE DEADLINE

The Associated Press

BellSouth will stay in the **pay phone** business until at least the end of 2003, the company announced Friday.

BellSouth Corp., which serves nine southeastern states, had announced in February that it planned to abandon all 143,000 **pay phones** it operates by the end of next year.

Now the company says it will extend the exit date by a year, partly because several large customers with contracts that go into 2003 have asked it to do so.

The extra time also will give those who have **BellSouth pay phones** on their property more time to find an alternate provider, **BellSouth** said in a news release.

Many states already are facing a sharp drop in **pay phones** - a half million have vanished from the national landscape over the last five years.

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State, The (Columbia, SC)

January 4, 2003

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BELLSOUTH REMOVING PAY PHONES

Joe Guy Collier, Staff Writer

BellSouth Corp. expects to be out of the pay phone business by the end of this year.

The Atlanta-based telecommunications company will either sell or remove more than 100,000 pay phones, including 6,500 in South Carolina.

Pay phones no longer fit the company's strategy, said Marcia Purday, a South Carolina spokeswoman for **BellSouth**.

The company has seen an overall shift in the market as callers rely more on cellular phones and other wireless **communication** devices, she said.

"The way people are calling is different," Purday said. "The trends are different."

BellSouth's exit from the industry won't mean an end to pay phones in South Carolina.

More than 1,200 companies are registered to offer pay phone service in the state, according to the S.C. **Public** Service Commission.

The fate of each pay phone will be handled on a case-by-case basis.

-Joe Guy Collier

Illustration:PHOTO: BW

Cell phones have largely replaced pay phones as the **communication** device of choice for people on the move. SEAN RAYFORD/THE STATE

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☒ Daily ☐ Weekly ☐ Other

101 Marcia Purday

More pay phones fading out

PAY from Page 9B

soon the surging popularity of mobile phones, pagers and other wireless communication devices, Purday said. As a result, BellSouth has decided to focus on those and other high-growth products such as speedy Internet access and long-distance phone service.

"Those trends really forced us in 2001 to renege our pay phone operations," Purday said.

Small-business owners such as Walter Rice hope to capitalize on BellSouth's retreat and gain market share.

"It's an opportunity," said Rice, whose Goose Creek-based KAT Communications purchased the majority of its 300 pay phones in the Charleston area from BellSouth. "We're wishing they got out of the business in 2001."

Rice, who also is president of an industry group called the South Carolina Public Communications Association, readily acknowledges the pay phone business has been an industry in decline.

"You can find high school kids who have never used a pay phone, but we're not going away," he said. "You can still buy buggy whips in downtown Charleston. We're just going to have to refocus. The pay phone business isn't dead, only changing."

Jeff Kagan, an independent telecommunications analyst based in Atlanta, agreed that the industry will survive.

"But it will look much different," Kagan said. "It will be smaller, more compact and serviced by smaller operators in niche markets."

Rice said service will improve with smaller, nimble competitors chasing the business.

"We're all independent business people," he said. "If a phone is not working, I'm not inclined to leave

it lying around for a week. We're going to get out there."

Also, Kagan said, demand for pay phones is not likely to go away completely.

"There's always going to be a need in certain geographic locations," he said, including rural areas, low-income neighborhoods, shopping centers and airports.

"Even though more than half the people have cellular phones, there are people who don't," he said.

Still, Kagan expects the number of pay phones to drop even further, though the industry may become more innovative.

"You're going to see a lot of experimentation with what else pay phones can do, whether they can become information machines or Internet machines," Kagan said. "How successful it will be? The jury's still out on that one."

At least one big telecommunications company already is dabbling in alternate uses.

"At this point, we, like many phone companies, have lost a lot of pay phones," but it's still very competitive," said Paul Miller, spokesman for Verizon Communications, which owns about 360,000 pay phones nationwide, including 600 in South Carolina.

For instance, Verizon is testing pay phones that double as Internet access kiosks.

"It's an evolution for pay phones that would be more data-oriented as opposed to voice-oriented," Miller said.

The company also is experimenting with pay phones that can make overseas calls only.

Another twist is a throwback to simpler times: It allows users to place a one-minute local call for a mere dime.

John P. McDermott covers economic development and real estate. He can be reached at 843-837-5572 or jmcdermott@postandcourier.com.

BellSouth says it's time to hang up pay phones

Fading, old-time industry may undergo high-tech changes in information age

BY JOHN P. McDERMOTT
Of The Post and Courier Staff

The pay phone business in South Carolina is about to see big changes as BellSouth Corp. moves to disconnect itself from the shrinking old-line industry.

A subsidiary of the telecommunications giant is seeking permission from the state Public Service

Commission to divest its 10,000 pay phones in the state and exit the business by early 2004.

BellSouth announced it wanted to do just that in 2001. Originally, the company wanted to be out of the pay phone business by the end of last year, but it pushed back its schedule to give bigger customers like convenience store chains time to find alternate providers.

BellSouth's decision reflects the ills of an industry that has been trampled by the wireless revolution. The number of pay phones in the United States is down to 1.7 million from 2.2 million since the 1990s, according to the American Public Communications Council, which represents about 1,300 independent pay phone operators.

"The market trends in the pay phone business have changed," said BellSouth spokeswoman Marcia Purday. The biggest shift has

See PAY, Page 10B

EXHIBIT RLK-2



BellSouth Public Communications, Inc.

February 5, 2001

Dear BSPC Customer:

Because you are a valued customer, I personally want to make you aware of a recent announcement regarding payphone services currently provided at your location by BellSouth Public Communications, Inc. (BSPC).

Due to downward trends in the use of payphones, BellSouth has made the decision to exit the payphone business. **BSPC will discontinue providing payphone services to its customers after December 2002.** We are notifying you almost two years in advance to ensure you have sufficient opportunity to identify a different communications technology or an alternative payphone services provider.

This decision to discontinue offering payphone services is the result of continuing declines in payphone usage. Traditional payphone users and the new generation of users are choosing other alternatives such as wireless communications and personal communication devices. We have experienced moderate declines in usage for a number of years, but usage levels have decreased dramatically since 1998. As a result, BellSouth has made a strategic decision to exit this business since we foresee this downward trend continuing into the future.

What will this decision by BellSouth mean to you as a payphone location provider customer?

- If you are currently under contract with BellSouth Public Communications for payphone services, we will honor the terms and conditions of your contract. At the expiration of this agreement, BSPC will continue to offer high-quality services on a month-to-month basis until December 2002. Or, you can elect to have your payphone service provided through another payphone provider. In any event, commission payments paid by BellSouth will be discontinued with the expiration of your existing contract. If the terms of your contract with BSPC extend beyond December 2002, we will be in contact with you to discuss options.
- If you currently operate under a month-to-month agreement with BSPC, BellSouth will make a final commission payment on revenues earned for the April 2001 commission cycle. At your discretion, BSPC will continue to provide high-quality services on a month-to-month basis until December 2002, but no commission payments will be made to your account.

Please feel free to contact your BellSouth Public Communications account representative for answers to any questions you might have concerning this decision. Or, call BSPC Chief Operating Officer Rachel Russell or me directly at 1-800-451-2646, ext. 201.

I am confident this early announcement of our decision offers ample opportunity for you to explore your many options. We encourage you to allow BellSouth to continue serving your payphone needs through December 2002. BellSouth values your business and we sincerely hope you will continue to take advantage of the many products and services available from BellSouth.

Sincerely,

Richard H. Holmes
President



BellSouth Public Communications, Inc.

August 17, 2001

Dear BSPC Customer:

During February 2001, BellSouth Public Communications (BSPC) notified customers of its plan to discontinue providing payphone services after December 2002. Because you are a valued customer, I personally want to make you aware of a change to that previously announced date.

Based on several factors, including customer requests and input, BellSouth will continue to offer payphone services through December 2003.

This new date, **December 2003**, is a full year more for you to continue to receive payphone services from BellSouth. The decision to discontinue offering payphone services in the future continues to be the result of declines in payphone usage. Traditional payphone users and the new generation of users are continuing to select other alternatives such as wireless communications and personal communication devices.

What will this new exit date, **December 2003**, mean to you as a payphone location provider customer?

- If you are currently under contract with BSPC for payphone services, we will continue to comply with the terms and conditions of your contract. At the expiration or termination of this agreement, BSPC will continue to provide or offer you high quality payphone services until **December 2003**. Or, you can elect to have your payphone service provided through another payphone provider. BSPC will work with you to sell de-branded payphone equipment in-place to you and/or your designated new payphone service provider. In general, commission payments paid by BellSouth will be discontinued concurrent with the expiration or termination of your existing contract. If the terms of your contract with BSPC extend beyond **December 2003**, we will be in contact with you to discuss options.
- If you currently operate under a month-to-month arrangement with BSPC, we will continue to provide or offer you high quality payphone services until **December 2003**. Or, you can elect to have your payphone service provided through another payphone provider. BSPC will work with you to sell de-branded payphone equipment in-place to you and/or your designated new payphone service provider. In general, commission payments paid by BellSouth will be discontinued concurrent with the expiration or termination of your existing contract. If the terms of your contract with BSPC extend beyond **December 2003**, we will be in contact with you upon your request or during our normal course of business operations to discuss options.

BSPC encourages you to keep your payphone services with BellSouth until **December 2003**. BSPC will continue to provide excellent maintenance and repair services. You will receive quick access to our customer service and repair center. A BSPC payphone provides access for your customers to E-911 emergency service, keeps your business lines open for important calls, and allows your employees and customers to make local and long distance calls in a variety of ways at their expense and not yours.

As always, please feel free to contact your BSPC accounts representative for answers to any questions you may have concerning this decision. Or, you can call the Public Communications Service Center at 1-800-451-2646 anytime between 8:00 A.M. and 4:30 P.M. CDT Monday through Friday.

Thank you for your business and we look forward to continuing to provide your payphone services until **December 2003**.

Sincerely,

Rachel K. Russell
President & Chief Operating Officer
BellSouth Public Communications, Inc.



BellSouth Public Communications, Inc.

May 1, 2003

Dear BellSouth Payphone Customer:

RE: Location Provider Agreement between BellSouth Public Communications, Inc. ("BellSouth") and Location Provider, Terminated Contract # _____ (the "Agreement")

As you are aware, BellSouth Public Communications (BSPC) previously terminated your payphone contract. However, BSPC has maintained payphone service at your location for your convenience.

BellSouth also would like to remind you that we are exiting the payphone business in December 2003 and make you aware of some possible options for your current payphone and associated equipment.

BSPC will continue to provide service until December 2003, provided usage is sufficient to warrant the continuation of service until that time. Should you, as the Location Provider, opt to secure a new payphone provider prior to December 2003, BellSouth requests a two weeks notice for the removal of our equipment. With your selection of a new payphone service provider, BSPC is pleased to offer you a monetary incentive for your assistance in the sale of the existing BellSouth payphone equipment at your premises to your new payphone service provider. The monetary incentive is based on 5% of the sale price of the pay telephone set(s) and 15% of the sale price of the enclosure(s) and pedestal(s). Please contact our service center at 1-800-451-2646 for further details. BSPC will de-brand the equipment and remove all references to the name "BellSouth". The access line monthly billing will transition to the new service provider.

BellSouth is pleased to have provided your public payphone service and looks forward to assisting you during this transition. **Please note: BellSouth will commence the removal of all payphone equipment effective January 2004 unless the removal or the transition to a new payphone service provider has been completed prior to that date.** Please call our Business office at 1-800-451-2646 if you have any questions.

Sincerely,

Rachel K. Russell
President & Chief Operating Officer
BellSouth Public Communications Inc.



BellSouth Public Communications, Inc.

December 1, 2003

Dear BellSouth Payphone Location Provider:

This is your final reminder that BellSouth Public Communications is planning to exit the payphone business December 31, 2003.

We plan to begin removal of all remaining stations on January 2, 2004.

Please contact our Business Office at 1-800-451-2646 if you have any questions.

Sincerely,

Rachel K. Russell
President & Chief Operating Officer
BellSouth Public Communications Inc.

EXHIBIT RLK-3

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Re Access Charge Reform and Universal Service Reform
Cause No. 40785

Indiana Utility Regulatory Commission
September 18, 1998

Before McCarty, Klein, Ripley, Swanson-Hull, and Ziegner (all concurring),
Commissioners, and Colton and Gray, administrative law judges.

BY THE COMMISSION:

*1 The Telecommunications Act of 1996 ('TA96') discusses public interest payphones, and in Section 276(b)(2) states, 'the Commission [FCC] shall determine whether public interest payphones which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.'

In response to the above mandate, the FCC on September 20, 1996 adopted and released a 'Report and Order' in consolidated CC Docket Nos. 96-126 and 91-35 (FCC 96-388) adopting new rules and policies governing the payphone industry (the 'Payphone Order') [FN1]. In ¶ 282 of the Payphone Order, the FCC states:

We adopt as a definition of 'public interest payphone,' a payphone which (1) fulfills a public policy objective in health, safety, or public welfare, (2) is not provided for a location provider with an existing contract for the provision of a payphone, and (3) would not otherwise exist as a result of the operation of the competitive marketplace.

In its Payphone Order, the FCC defines the role states will play in meeting the public interest payphone objectives of TA96. In ¶ 280, the FCC concludes 'the primary responsibility for administering and funding of public interest payphone programs should be left to the states.' In ¶ 283, the FCC leaves to the discretion of the states the manner in which public interest payphone programs are to be funded, 'so long as the funding mechanism, (1) 'fairly and equitably' distributes the cost of such a program, and (2) does not involve the use of subsidies prohibited by Section 276(b)(1)(B) of the 1996 Act.' Finally, in ¶ 285 the FCC directs each state to review whether it has adequately provided for public interest payphones in a manner consistent with the Payphone Order. Such review must be completed by each state within two years from the date of the Payphone Order (i.e., by September 20, 1998). In particular, each state should evaluate whether it needs to take any measures to ensure that payphones serving important public interests will continue to exist in light of the elimination of subsidies and other competitive provisions established pursuant to Section 276 of the 1996 Act, and that any existing programs are administered and funded consistent with the requirements of the Payphone Order. Section 276(c) of TA96 provides for state preemption to the extent that any state requirements are inconsistent with the

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ATTACHMENT A

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FCC's regulations that are issued with respect to payphones. Each state is accordingly directed to examine and modify its regulations applicable to payphones and payphone service providers ('PSPs') and for purposes of ensuring fair competition through a competitive marketplace, to remove only those regulations that affect payphone competition, while remaining free to impose regulations on a competitively neutral basis to provide consumers with information and price disclosure. (Payphone Order, ¶ 60)

*2 This Commission held a series of technical conferences on March 11, March 25, April 15, and May 14 to discuss public interest payphones. After considering the parties' inputs, we formulated a definition for 'public interest payphones' and created an Application Form to be sent to the Commission if a public interest payphone is requested. A Docket Entry was issued on May 19, 1998 announcing that an evidentiary hearing would be convened on July 7, 1998 to hear the parties' comments on the definition and Application Form, and other public interest payphone issues set forth in Attachment A to the Docket Entry.

An evidentiary hearing was convened on July 7, 1997 at 9:00 a.m. in Room TC-10 of the Indiana Government Center South, Indianapolis, Indiana. The following parties were represented by counsel: Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana; Sprint Communications Company, L.P. and United Telephone Company of Indiana, Inc., collectively known as 'Sprint'; GTE North Incorporated and Contel of the South, Inc., collectively known as 'GTE'; and the Office of Utility Consumer Counselor ('OUCC').

All prefiled testimony was admitted into the record without objection and the parties conducted cross-examination. Mr. Hartman also asked certain questions of each of the witnesses. Based upon the evidence presented at the hearing, and being duly advised in the premises, the Commission now finds as follows:

1. Jurisdiction. In our March 26, 1997, Order, initiating this investigation, we found that the Commission had jurisdiction over the subject matter and parties to this proceeding. No party challenged the Commission's determination of jurisdiction. Moreover, in the FCC's Payphone Order, it is to be noted that the FCC directs each state to review whether it has adequately provided for public interest payphones in a manner consistent with the Payphone Order and complete such review within two years from the issuance date of the Payphone Order (i.e., on or before September 20, 1999). (Payphone Order, ¶ 285) In particular, the Payphone Order directs that each state should evaluate whether it needs to take any measures to ensure that payphones serving public interests will continue to exist in light of the elimination of subsidies and other competitive provisions established pursuant to Section 276 of TA96, and that any existing programs are administered and funded consistent with the requirements of the Payphone Order. (Payphone Order, ¶ 285)

Notice of the hearing in this Cause has been duly published as required by law. Accordingly, we reaffirm our previous determination that we have jurisdiction over the subject matter and the parties to this proceeding in addressing the subject of public interest payphones.

2. Matters to be Addressed in this Order. Pursuant to Section 276 of TA '96, the FCC's Payphone Order, and 47 CFR 64.1330 (which is quoted in Finding Paragraph No. 7 below), each state is required to do the following: (1) by September 20, 1998,

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determine whether there is a need to take any measures to ensure the existence of public interest payphones; (2) if there is such a need, determine how a public interest payphone program can be supported 'fairly and equitably;' and (3) modify or eliminate regulations applicable to payphones and payphone service providers ('PSPs') that are inconsistent with the FCC's Payphone Order and TA '96.

*3 In addition to addressing the above matters, we believe it is necessary to adopt a definition for the term 'public interest payphone.'

3. Adoption of Definition for 'Public Interest Payphones.' In order to satisfy the FCC that Indiana has examined public interest payphones as required, it is first necessary to define the phrase 'public interest payphone,' to reassure the FCC that we are addressing the type of payphone service they intend us to address. Following several technical conferences, the presiding officers proffered for comment a proposed definition of 'public interest payphone' in the May 19, 1998 Docket Entry. That proposed definition, a copy of which is attached to this Order as Attachment A, included seven Guidelines to be followed when interpreting the definition

At the July 7, 1998 evidentiary hearing, no party objected to or proposed any modifications to the proposed definition of 'public interest payphone.' With regard to the Guidelines, there was one suggestion. Sprint suggested that an eighth guideline be included that would state:

There is no other payphone located at the same address or within 1,000 yards unless the governmental agency demonstrates through a findings-of-fact procedure that such a geographic restriction is unreasonable.

After reviewing the comments of the parties, we adopt the definition of public interest payphones set forth in Attachment A to this Order. No party has offered any modifications to, or criticism of, this definition. Furthermore, this definition is virtually identical to the FCC's adopted standard, assuring that it is in compliance with the FCC's Payphone Order and TA '96. We also adopt the seven Guidelines that accompany the definition. Again, no party offered any modifications to, or criticism of, these Guidelines.

We reject Sprint's suggested eighth guideline. While the proximity of other payphones should certainly be a consideration in determining the need for a public interest payphone, we do not believe a fixed standard should be used; rather, proximity should be evaluated on a case-by-case basis.

4. Need for a Public Interest Payphone (PIP) Program in Indiana. With one exception, all of the parties presenting testimony at the July 7, 1998 hearing agreed there was no need for a public interest payphone program, arguing that the competitive marketplace is adequately taking care of the need for public interest payphones in Indiana. The OUCC disagreed. Although the OUCC thought it was too soon to establish a funding mechanism for a public interest payphone program, it insisted there was a need for such a program, and suggested in detail a procedure for determining the extent of that need. We summarize below the parties' testimony on these matters.

A. Positions of the Parties

Ameritech Indiana. The witness for Ameritech Indiana was Mr. Fred A. Miri, Director-Regulatory Affairs in the Regulatory Policy Organization. Mr. Miri is responsible for assisting the Ameritech Payphone Services unit in implementing all state and federal requirements relating to pay telephones in the five Ameritech states. Ameritech Indiana submits that this proceeding initiated by the Commission has sufficiently addressed the requirements of TR96 and the FCC's Payphone Order and has fulfilled the Commission's responsibility of evaluating whether or not the provisioning of public interest payphones in Indiana is necessary. In this regard, Ameritech Indiana's position is that there is no current demonstrated need for public interest payphones in Indiana and that any such needs are currently being adequately met by the competitive payphone marketplace. Drawing on its experiences in the marketplace, Ameritech Indiana notes that through the competitive bidding process, a governmental entity may ensure that the payphone contracts it negotiates with PSPs will meet all the pay telephone needs of the communities it serves in the future. Citing to proceedings in other states, Ameritech Indiana observes that other states have concluded that no state program was necessary to support public interest payphones due to the competitive pay telephone market. [FN2]

*4 In the rebuttal phase of its testimony, Ameritech Indiana responded to various aspects of the testimony of the OUCC. Ameritech Indiana disagreed with the OUCC's assessment of the need for public interest payphones in Indiana. To Ameritech Indiana's knowledge, there have been no instances where the State of Indiana or any other state agency has been refused a public interest payphone in those locations identified by any such agency to Ameritech Indiana. Ameritech Indiana points out that the OUCC's witness, Mr. Rees, acknowledges no need for public interest payphones has been quantified for Indiana and that the OUCC's position is based on mere conjecture and unempirical generalizations. Ameritech Indiana's rebuttal testimony reemphasizes that, in those instances where Ameritech Indiana is the payphone provider existing contracts with a state agency permit the placement of additional payphones, including public interest payphones, on an ongoing basis as result of any current needs assessment made by any such state agency. Mr. Miri testified that if any additional payphones were now installed as public interest payphones, outside an existing contract, funding for such payphones would require support from general tax revenues or other sources, an outcome that in Mr. Miri's view would not be in the public interest.

Upon cross-examination by the OUCC, Mr. Miri confirmed that none of Ameritech Indiana clients' payphone needs have remained unmet or that any requested payphone locations have been rejected. Moreover, there have been no instances where the state or a governmental agency has been required to pay a portion of the expense of provisioning, maintaining or operating a payphone under contract with Ameritech. (Tr., pp. PIP 27-28) Ameritech Indiana states that the OUCC has not demonstrated that the competitive payphone marketplace is incapable of meeting public interest payphone needs of Indiana and the OUCC's recommendation for a public interest program should be rejected. In reply to further cross-examination by the OUCC, Mr. Miri testified that a 12 to 18 month period should be sufficient to gauge how well the competitive payphone marketplace was capable of meeting public interest payphones needs. Mr. Miri suggested that the Commission has used the complaint process to measure if any problems exist with regard to various utility activities and that such a process could be relied upon to monitor payphone provisioning activity. (Tr., PIP-29)

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GTE. GTE believes that the states are given the option by the FCC of allowing the deregulated payphone marketplace to function for a period of time before determining its success or failure to adequately provide payphone needs and before implementing and funding any PIP program when necessary. GTE thus believes this is the best way for the Commission to fulfill the requirements of TA96 and relevant FCC orders.

GTE notes that the practice of PSPs contracting with local and state governmental entities to provide payphone services on their premises creates an opportunity for such entities to include unprofitable (i.e. public interest) payphones within their jurisdictions under the same contract umbrella. Furthermore, such agencies could also directly contract with PSPs for placing subsidized public interest payphone locations in their jurisdictions or local civic organizations could fund such needs.

*5 Sprint. Mr. Bruce M. Greene, Manager-State Regulatory East with Sprint/United Management Company, testified on behalf of Sprint. Sprint believes that the best activities for the Commission at the present time with regard to public interest payphones is to take no action. As with the Ameritech Indiana and GTE witnesses, Mr. Greene testified that the competitive marketplace already has and will take care of the need for public interest payphones in Indiana as a result of the deregulation of the payphone industry.

Mr. Greene testified that if the Commission chooses to take action, the definition and guidelines developed by the Commission should be incorporated into 17C IAC 7-1.1-11 by altering such rule. Sprint suggests that the process the Commission has followed in this proceeding is adequate to fulfill the requirements of TA96 and the FCC. Sprint submits that the Commission was directed to review whether it has adequately provided for public interest payphones and that the record is clear that the Commission has made a thorough review and no further action is required or necessary.

In the rebuttal phase of its testimony, Sprint disagrees with the OUCC's recommendation for a public interest payphone program, suggesting that the OUCC is attempting to re-regulate a small portion of the payphone industry and encumber it with additional, restrictive regulation. Mr. Greene testified that the Commission should give the competitive marketplace an opportunity to meet the public interest payphone needs of Indiana communities without what it characterizes as the costly, burdensome and inappropriate encumbrances inherent with the re-regulation implied in the overall position of the OUCC. Sprint submits such a position will not serve the needs of the citizens of Indiana. In Sprint's view, the OUCC puts forth arguments for stricter regulation of a small segment of an industry, if indeed there was only one provider within that industry. However, Sprint points out in rebuttal that monopoly provisioning of payphones is a thing of the past and that the payphone industry is a competitive industry.

OUCC. The OUCC recommended that the Commission issue a generic order in this cause establishing an initial Public Interest Payphone program for the State of Indiana. The OUCC took the position that a generic order would provide the flexibility required for the Commission to develop and implement an effective PIP program tailored to meet the specific needs of Indiana residents. The OUCC recommended that the Commission first adopt a definition of 'Public Interest Payphones' for the State of Indiana, then gather data to analyze the public need

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for PIPs before deciding whether or when to establish any explicit PIP funding mechanisms. The OUCC suggested that the Commission's basic plan should include guidelines for measuring public need for PIPs, processing requests for PIPs, selecting the best potential sites for PIPs, determining which payphone provider should place each PIP, providing for future maintenance of PIPs, and establishing review procedures for future PIP removals.

*6 The OUCC noted that, to date, the Commission has not required Indiana payphone providers to maintain records or submit reports to the Commission concerning the number and geographic location of payphone requests denied each year; nor has the Commission ever established or publicized procedures for government agencies and other interested persons to submit requests for public interest payphones to the Commission or to notify the Commission of rejected requests for public payphones. Since the OUCC was not aware of any studies or surveys measuring the need for PIPs in Indiana, the OUCC recommended that the Commission establish recordkeeping and annual reporting requirements for the payphone industry as the most cost-effective and efficient way to measure the unmet need for public payphones and/or PIPs in Indiana.

OUCC Principal Engineer Harold L. Rees testified that, based on his preliminary discussions with representatives of several state government agencies and considering the low basic telephone service penetration rates discussed below, there is an unmet need for public payphones, and a possible need for Public Interest Payphones, in certain areas throughout the State of Indiana. Mr. Rees also observed that MECs in other states have removed themselves from the payphone business and that Indiana ILECs have, in recent years, reported plans to remove unprofitable payphones, demonstrating the potential for future increases in the need for Public Interest Payphones if and when the competitive payphone market fails to meet public need for payphones. Mr. Rees also recommended an annual reporting requirement to track future changes in the need for Public Interest Payphones in Indiana.

Conceptually, the OUCC identified two areas where it expects to find a higher demand for Public Interest Payphones: (1) less affluent residential neighborhoods with low basic telephone service penetration levels, and (2) remote or isolated areas where immediate telephone access to emergency services could be required, such as in remote portions of public parks and campgrounds.

Mr. Rees presented historic data on telephone penetration rates in Indiana. He explained that the relationship the OUCC expects to find between low telephone penetration rates and actual need for PIPs could be affected by other factors, such as the present availability of public payphones, the area's average income and employment levels, or religious convictions of area residents that preclude use of modern telecommunication devices.

Mr. Rees noted that Indiana's penetration level for basic telephone service has been close to the United States average for several years. Recent figures show a 94.3% residential telephone penetration rate for Indiana, compared to a national average of 94.0% as of March, 1997. However, based on 1990 Census data, 13 of Indiana's 92 counties have residential telephone penetration rates of 90% or less. Therefore, the OUCC believes that those 13 counties could present a greater demand for PIPs than other counties in Indiana with higher household telephone penetration rates.

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*7 Mr. Rees testified that the most recent penetration rates reported for Indiana cities are based on information from the 1990 Census. At that time, 67 Indiana cities and towns had residential telephone penetration rates of 90% or less. Accordingly, the OUCC believes that those 67 cities and towns will demonstrate a greater demand for PIPs than cities with higher residential telephone penetration rates.

Mr. Rees suggested that since the OUCC expects to see a higher than average demand for PIPs in areas where poverty rates are relatively high, that case workers and other field representatives for the Department of Family and Social Services (formerly known as the 'Welfare Department') and other public and private agencies that administer low income assistance programs at the local level and interface daily with Indiana's most impoverished residents, could help the Commission and/or the PIP Committee identify areas that are most in need of PIPs.

Mr. Rees also contacted several state agencies with a state-wide field presence to identify areas with an existing need for Public Interest Payphones. He learned that changes in low-income assistance programs and periodic economic downturns can result in increased utilization of existing payphones and a need for improved payphone access in areas with low income levels and low penetration rates for basic telephone service.

Mr. Rees testified that the Indiana Department of Natural Resources (DNR) has payphones in close to 100 public facilities across the state, including state parks, fish and wildlife areas, state forests, reservoirs, and historic sites, to ensure 24-hour telephone access to emergency health and public safety services. Mr. Rees noted that, for the most part, the competitive payphone industry has satisfied DNR's demand for accessible public payphones. However, in recent years some payphone providers have removed or threatened to remove less profitable public payphones at locations such as the Potawatomi Inn (Tippecanoe River State Park), several remote locations at Spring Mill State Park, the Huntington Reservoir, Charlestown State Park, Raccoon Lake (Mansfield Launching Ramp), Shakamak State Park, and the Fort Harrison Golf Course. These locations could also require placement of Public Interest Payphones to meet the public's emergency health and safety needs.

Mr. Rees also reported that the Indiana State Police identified at least a dozen potential PIP sites without conducting any formal research studies. The sites included weigh stations along Indiana's interstate highway system, which are used by truck drivers and other vehicles that pull off of highways during emergencies. The State Police and the Indiana Department of Transportation (INDOT) indicated that public payphones are needed at those sites. However, according to the State Police, some Indiana payphone providers are in the process of removing payphones from weigh station facilities, creating a potential need for PIPs at those locations.

*8 Mr. Rees testified that persons he contacted at the State Emergency Management Agency (SEMA) suggested that PIPs be considered for National Guard armories, which are designated as public emergency shelter points in case of public disasters such as storms and floods.

Mr. Rees also reported that employees of the Indiana Department of Workforce Development (DWD) suggested that PIPs could help alleviate the public

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communications problems at Workforce Development offices around the state.

The OUCC recommended that the following steps be taken to measure the need for PIPs in Indiana. First, Mr. Rees recommended a review of recently abandoned payphones sites to determine why payphones were removed from those locations (e.g., vandalism, low profitability, decreasing demand, or changing public needs). Such a review could help identify sites where public interest payphones are presently needed.

Second, the OUCC recommended that areas with low residential telephone penetration rates be identified and that current penetration rates for those areas be compared to the total number of payphones in the vicinity to identify areas where payphones have, in essence, become an extension of universal service, substituting for in-home local telephone service.

Third, the OUCC recommended a review of future payphone applications that are rejected by Indiana payphone providers. One purpose of the review should be to identify areas where PIPs might be needed for access to emergency services. Redundant, excessive or frivolous requests would also be screened out during the review process. If payphones have been removed for reasons related to crime, that information should be reported to local law enforcement officials.

Fourth, the OUCC recommended that a PIP application process be established to identify and measure the need for Public Interest Payphones in Indiana on a going-forward basis. The OUCC approved the content of the Commission's proposed PIP application form, but recommended adding a question to determine whether the proposed PIP site is located in an area with low residential telephone penetration rates. The OUCC also noted that, if the application process is to provide an effective measure of public need for PIPs in Indiana, the application process must be adequately publicized throughout the state.

Therefore, the OUCC recommended that the Commission require the telecommunications industry to fund state-wide educational and promotional programs to increase public awareness of the Public Interest Payphone application process. Specifically, the OUCC recommended that written notices concerning the PIP application process be provided each year to various state, federal and local government agencies. The OUCC also offered to conduct PIP public informational campaigns, assuming necessary funding is provided.

In its testimony, the OUCC agreed that Indiana's payphone industry should be encouraged and, where possible, contractually required to provide payphone coverage at marginal locations. If such voluntary industry efforts and contractual commitments satisfy the public's need for PIPs, there would be no reason for the Commission to establish explicit PIP funding mechanisms. The OUCC recommended that promotional mailings be sent to the government agencies and other persons or businesses that contract with payphone providers for the placement of public payphones in Indiana, encouraging them to contractually require the placement of payphones at proposed PIP sites before granting future service contracts for profitable payphone sites. Payphones placed as a result of such negotiations would not be classified as PIPs and would not be subject to PIP guidelines or future funding requirements. However, the OUCC recommended that the Commission consider tracking such placements since they will reduce the need for PIPs in those areas.

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*9 Fifth, the OUCC testified that the Commission needs to develop a plan for processing PIP applications, once submitted. The plan should include the formation of a PIP committee, an appropriate annual meeting schedule, and the desired meeting format. The OUCC recommended that PIP committee membership include representatives of the IURC, the OUCC, incumbent LECs, Indiana payphone providers, and other interested state or local government agencies, such as Family & Social Services (FSS), the Indiana State Police (ISP), the Indiana Department of Workforce Development (DWD), the Indiana Department of Natural Resources (DNR), the Indiana Department of Transportation (INDOT) and the State Emergency Management Association (SEMA). The OUCC recommended that payphone providers be required to report denials of requests for public payphones to the Commission's Telecommunications Division and the OUCC on a quarterly basis using a pre-approved standard PIP denial report form and that, starting in August of 1999, PIP denial reports be reviewed semi-annually at informal public meetings conducted by the IURC's Telecommunications Division. Direct notice of such meetings should be provided via facsimile, mail or authorized electronic posting (such as the ERMIS Bulletin Board) to all counsel of record in Cause No. 40785 and provided via facsimile or mail to all registered Indiana payphone service providers, all members of the PIP Committee, and all government agencies, offices or individuals whose requests for PIPs were denied during the prior 6-month period.

Sixth, to ensure competitive neutrality, the OUCC also recommended that the Commission require all Indiana payphone providers to register with the Commission to ensure that all such providers receive notice of future Commission rules and orders concerning payphones and PIPs. Such industry-wide registration would permit the Commission to identify potential PIP providers and possible sources of future PIP funding. The OUCC recommended that the Commission also require payphone providers to file lists indicating where each company's existing payphones are located throughout the State of Indiana, together with the phone number assigned to each payphone. The lists would be updated annually and would be afforded confidential treatment due to the proprietary nature of the information. Such information would permit the Commission to determine the proximity of existing, competitively placed payphones to proposed PIP sites.

Seventh, the OUCC testified that the primary purpose of Public Interest Payphones could be thwarted if PIP providers raise prices for local calls. For this reason, the OUCC recommended that the Commission either establish a price ceiling of 35 cents per call for PIPs or establish a rule that local call prices for PIPs be no higher than the average local call price charged by Indiana's largest payphone provider. By definition, PIPs would not be provided at competitive payphone sites in Indiana. Therefore, setting a price cap for PIPs would not violate FCC local call pricing ground rules for payphones placed through a competitive market process. [FN3]

*10 Eighth, the OUCC recommended that PIPs not be removed without prior approval from the IURC, its Telecommunications Division and/or the PIP committee. PIP providers should be required to submit written requests to the IURC Telecom Division and serve copies on the OUCC and the government agency that sponsored the original request for a PIP. The OUCC recommended that the notice include the reason(s) for the proposed removal. If the PIP Committee or the Commission approves the removal, but determines that a public need still exists for a PIP at a given location, the OUCC recommended that the IURC Telecom Division arrange for an alternate provider to install a replacement PIP at the time of the scheduled

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removal.

Ninth, the OUCC also noted that, since payphone providers in general experience problems with vandalism from time to time, PIP providers are likely to encounter similar difficulties. Due to the potential for vandalism, the OUCC recommended that the Commission also establish guidelines for removal, replacement, repair and associated cost recovery for PIPs that are damaged by vandals. The guidelines should address the number of times that PIP funding should be made available to replace or repair a PIP at a location that has been the subject of multiple acts of vandalism.

The OUCC noted that, in cases involving recurring acts of vandalism, the PIP Committee and/or the Commission might be required to decide whether the existing public need for a PIP justifies continued PIP support at that location or continued incurral of replacement and repair costs. If repeat vandalism is a problem in areas with low residential telephone penetration rates, nearby relocation options should be considered. The OUCC recommended that such decisions be handled, at least initially, on a case-by-case basis, until the PIP Committee and/or the Commission gain a better understanding of the need for PIPs and the actual costs caused by acts of vandalism.

Tenth, the OUCC recommended that, as experience is gained, the Commission should consider future changes to Indiana's PIP program using supplemental generic orders. Recognizing the need for a flexible, evolving review process, the OUCC recommended that the Commission conduct annual reviews of the PIP program during the first three (3) years after its introduction. The OUCC also recommended that if, at any time, the IURC Telecom Division, the OUCC, governmental entities or agencies sponsoring requests for PIPs, ten (10) PIP end users, ten (10) payphone service providers, or other interested Parties of record in Cause No. 40785 file requests for further review, the IURC should reopen its generic PIP proceeding to determine what, if any, changes should be made to existing policies, procedures, and other aspects of Indiana's PIP program.

The OUCC recommended that the Commission address only the need for PIPs at the present time and delay consideration of explicit PIP funding alternatives until the need for such funding is confirmed. At such time, the Commission should be able take a more principled approach to selecting appropriate PIP funding mechanisms, since its decision would be based on actual demand and usage data gathered over time.

*11 The OUCC noted that, if explicit PIP funding is ultimately required, the Commission will need to determine the appropriate level of funding, establish safeguards to prevent unfair gaming of the system, and promote competitive neutrality. Although the OUCC identified possible future funding alternatives (e.g., the intrastate universal service fund, annual assessments against payphone providers or other targeted taxing options). However, the OUCC recommended that an analysis of funding alternatives be postponed until the actual need for PIPs has been measured and assessed so that appropriate funding alternatives can be selected with regard to the nature of the public need that is being met. The OUCC gave the following example. If the assessment of public need shows that most PIPs are needed for random, emergency purposes only, funding through general tax revenues might be most appropriate. However, if the public need assessment shows that PIPs are generally used as substitute phone service by persons without

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in-home local telephone service, universal service funding might be the most appropriate funding alternative.

Absent essential information on the nature and extent of the need for PIPs in Indiana, the OUCC recommended that the most appropriate funding option(s) not be selected until the level and type of need is established through the review process presented above. Therefore, applications for PIPs and the additional data discussed above should be processed without any predetermination of funding levels or sources.

B. Discussion and Findings. In its Payphone Order, the FCC directs each state to evaluate whether measures need to be taken to ensure that payphones serving important public interests will continue to exist in light of the elimination of subsidies and other competitive provisions established pursuant to Section 276 of the TA-96, and that any existing programs are administered and funded consistent with the requirements of the Payphone Order.

The Commission's Rules already require telephone utilities to provide payphones where necessary to serve the needs of the public. That Rule, found in the Commission's Service Standards at 170 IAC 7-1.1-11(L)(2) provides:

(2) Except as provided in paragraph (1) above, a utility may not be required to provide coin public telephone service at locations where revenues derived therefrom are insufficient to support the required investment unless reasonable public requirements relating to health, safety or welfare will be served. Outdoor public coin telephones should be lighted during the hours of darkness if power is available and should be located in a place which offers maximum protection from vandalism.

As we will discuss later below, the FCC's Payphone Order requires us to abrogate this Rule. Accordingly, we must determine, as provided in Section 276 of TA '96, whether the above payphone program should continue to exist, and if so, what measures should be taken to preserve it. The industry's position is that no program is needed; the marketplace will satisfy public interest needs. The OUCC counters that a program is necessary, arguing that low telephone penetration rates in several areas of Indiana strongly indicate the need for public interest payphones, and several governmental agencies have indicated directly to the OUCC that public interest payphones are needed.

*12 We do not want to base our decision on either the industry's vague assurances or the OUCC's speculations about unsatisfied demand. Instead, we focus on those payphones, currently in service, that meet the new definition of Public Interest Payphone. We heard evidence that Sprint presently has 13 payphone locations (out of 1,750) that qualify as PIPs. GTE indicated that fewer than 2% of its 6700 paystations, which for convenience we quantify as 130 payphones, would qualify as PIPs. Thus, at present, there are roughly 143 payphones in Indiana that qualify as PIPs, not including any PIPs that are included in Ameritech Indiana's contracts with government agencies. While no evidence was presented by the industry that would indicate whether or not those 143 payphones were put in service pursuant to the requirements of 170 IAC 7-1.1-11(L)(2), it is reasonable to assume that, absent some form of regulation, there is no way to ensure that those 143 payphones will continue to be kept in service. The industry may promise to 'let the marketplace handle it,' but absent specific promises about specific locations,

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there would be nothing to prevent LECs from taking those payphones out of service. If there is a possibility that any of those payphones may be taken out of service, we believe the public's health, safety, and welfare would be served by implementing a new PIP program to replace the program established by 170 IAC 7-1.1-11(L)(2). Accordingly, we find that, pursuant to section 276 of TA '96 and the FCC's Payphone Order, a new PIP program should be implemented to ensure that payphones meeting the definition of a PIP will continue to exist, and to ensure that as new PIP locations are identified, they, too will be served.

To accomplish the above goals, we find that the following procedures should be followed:

Any person (including both individuals and organizations) may request the placement of a PIP at a given location, and should make such a request by filing a PIP Application Form with the Commission's Consumer Affairs Division. Upon reviewing the Application, the Consumer Affairs Division should determine whether the proposed location satisfies the definition of a Public Interest Payphone, as adopted herein. If there is insufficient information to make that determination, the Division may use whatever means it deems necessary to gather the information necessary to make its determination. If the Division determines that the proposed location satisfies the definition of a PIP, the Division should contact the Payphone Service Providers (which includes both LECs and Independent Payphone Providers) serving the area in which the proposed location is sited and request that one of them provide service within 90 days, unless good cause is given for a longer period of time. (If no PSP is willing to provide service, we will take steps to formally fund the PIP program as described in Finding Paragraph No. 5 below.) If instead the Division determines that the proposed location does not satisfy the definition of a PIP, the Division should so notify the Applicant and inform the Applicant that it has the right to file a docketed case with the Commission seeking a review of the Division's determination.

*13 The parties were asked to comment on a proposed PIP application form that was developed using input from technical conferences. No party had any objections to the proposed form. The OUCC, however, did request that an additional question be added inquiring about the telephone penetration rate for the area in which the proposed payphone would be located. We agree that such question should be included on the PIP Application Form. Attached to this Order as Attachment B is a copy of the PIP Application Form we find should be used by the Consumer Affairs Division in processing PIP requests. The adopted Form is essentially the same as the proposed form that was reviewed by the parties. It should be noted that the PIP Application Form includes a number of subjective questions. For example, one question asks why a payphone will support the public health, safety, or welfare. Another asks if the proposed payphone will be in proximity to other existing payphones. With regard to these and other matters, the Consumer Affairs Division should use its best judgment in making its determinations.

While the above procedures address the initiation of service for new PIP locations, a procedure is also needed to prevent the discontinuation of service to existing PIP locations. Because we do not know whether a given payphone location would qualify as a PIP location, we find that every PSP should inform the Commission's Consumer Affairs Division 30 days before it discontinues service to any payphone location. The PSP should also inform the Division whether it believes the location would qualify as a PIP. If upon further investigation the

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Division believes the location may qualify as a PIP, the location should be kept in service by the PSP for an additional 90 days, or until another PSP agrees to serve the location, whichever comes sooner.

5. Funding for a PIP program. In general the parties all agreed that it is too soon to establish a procedure for funding a PIP program. Their specific recommendations are summarized below:

A. Positions of the Parties.

Ameritech. Mr. Miri testified that if any additional payphones were now installed as public interest payphones, outside an existing contract with Ameritech Indiana, funding for such payphones would require support from general tax revenues or other sources, an outcome that in Mr. Miri's view would not be in the public interest.

GTE. GTE believes to be complete any such program must be funded. Such funding in GTE's view should be separate and apart from a universal service fund established to support high cost and low income residential and business customers. GTE recommends a separate fund be established and funded through a public interest payphone surcharge assessed upon all rate payers in Indiana, not solely from PSPs.

Sprint. Sprint disagrees with the OUCC's recommendation for a public interest program, suggesting that the OUCC is attempting to re-regulate a small portion of the payphone industry and encumber it with additional, restrictive regulation. Mr. Greene testified that the Commission should give the competitive marketplace an opportunity to meet the public interest payphone needs of Indiana communities without what it characterizes as the costly, burdensome and inappropriate encumbrances inherent with the re-regulation implied in the overall position of the OUCC. Sprint submits such a position will not serve the needs of the citizens of Indiana.

*14 OUCC. The OUCC recommended postponing an analysis of funding alternatives (e.g., intrastate universal service fund, annual assessments against payphone providers or other targeted taxing options) until the actual need for PIPs has been measured and assessed, so that appropriate funding alternatives can be selected with regard to the nature of the public need that is being met. The OUCC further recommends that the Commission should require the telecommunications industry to fund state-wide educational and promotional programs to increase public awareness of the public interest payphone application process. The OUCC expressed a willingness to plan and implement the informational campaign once funded. In response to questions from Mr. Hartman, Mr. Rees acknowledged that he had not estimated what the total cost or expense would be for such an Educational and Promotional Program. (Tr., PIP-63) The OUCC also recommends a registration requirement for all PSPs in Indiana and annual reporting requirements for all PSPs to the Commission including information as to telephone numbers for, and geographic locations of, all Indiana payphones.

B. Discussion and Findings. TA '96 mandates that any method for funding PIPs be 'fair and equitable.' At this time, we have not yet conducted any hearings to determine a 'fair and equitable' method for funding PIPs, nor have any of the

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parties herein suggested that we do so. The OUCC makes the practical recommendation that it would be best to first gauge the need and cost of PIPs before structuring a funding mechanism, and we agree.

We note with interest that none of the parties currently serving PIP locations have advocated devising a method for sharing the current cost of those locations. We take this as an indication of their willingness to continue shouldering those costs, perhaps out of a sense of civic duty, or perhaps due to a concern that the cost of regulation would outweigh the cost of continuing to serve those PIPs. It would be our preference that those parties, and other PSPs, continue funding PIPs voluntarily.

Because we have not yet devised a 'fair and equitable' method for funding PIPs, we will not order any PSP at this time to serve a proposed or existing PIP location. However, we stress that if no PSP agrees to serve a given PIP, we will immediately convene hearings to impose whatever funding mechanisms are appropriate and consistent with TA '96.

If the PSPs decide that as an industry they would like to devise their own method of allocating PIP costs, we would be willing to facilitate any discussions and meetings that might be necessary.

6. Publicizing the PIP program. The OUCC recommends the development of a comprehensive program of notification including state agencies with a broad field presence throughout the state, such as the Indiana Department of Family and Social Services, the Indiana Department of Natural Resources, the Indiana Department of Transportation, the Indiana Department of Workforce Development, the State Emergency Management Agency, and the Indiana State Police, with local distribution of PIP application forms being coordinated through the agencies' headquarters in Indianapolis. The OUCC suggests that additional direct mailings might be given to local government agencies and officials at the county, township, and city levels. (See, Rees, Ex. 1, pp. 16-18.) The OUCC also asked the Commission to force the payphone industry to fund the publicity campaign.

*15 A public interest payphone program similar to the one being implemented today has been in effect since 1979. However, because it was never actively publicized, it is difficult to draw any conclusions about the demand for the program. Recent regulatory and technological changes, however, might lead one to expect the demand for PIPs to decrease. For example, with the deregulation of the payphone industry, it is reasonable to expect an increase in the total number of payphones available to the public. In addition, the institution of the Lifeline and Link Up programs pursuant to our November 5, 1997 Order in this Cause would seem likely to increase the penetration of residential telephones, and thereby decrease the need for payphones, in lower income areas. With regard to technology, the advent of wireless and cellular telephone systems, including pre-paid cellular phone cards, might lead most observers to expect the public's need for payphones (including PIPs) to actually decrease instead of increase.

Notwithstanding our discussion above, we fully support any efforts the OUCC might make to publicize the PIP program; the greater the public awareness of the program, the better the public interest will be served. However, we will not compel funding for a PIP publicity program unless it is done in a 'fair and equitable' manner, and a hearing would have to be convened to determine how this

would be done. Therefore, for the time being, we propose several alternative means of publicizing the program. First, the OUCC has recently concluded a campaign publicizing the Lifeline and Link Up programs mentioned earlier. Undoubtedly, many of the social organizations that were contacted would also be interested in the PIP program. We suggest that the OUCC reestablish those contacts and inform them of the PIP program. The OUCC could also inform the various state agencies headquartered in Indianapolis. Second, we direct our Public Information Officer to post a description of the PIP program on the Commission's website, along with a copy of the PIP Application Form. Third and last, we find that every LEC and PSP should, upon denying a request for a payphone, fill out a 'Report of Denial of Request for Payphone, ' (the form originally proposed by the OUCC has been modified slightly) which has been attached to this Order as Attachment C, and forward that report to the Commission's Consumer Affairs Division. The Division is then instructed to contact the payphone applicant, and if the location may qualify as a PIP, forward a PIP Application Form to the applicant.

If and when hearings are convened to determine a fair and equitable method of funding PIPs, we direct the presiding officers to also inquire into the cost and propriety of different means of publicizing the PIP program.

7. Modification/Abrogation of Existing Payphone Regulations or Standing Orders of the Commission Related to the Provisioning of Payphone Service. As part of the FCC's Payphone Order, the FCC promulgated rules amending Title 47 of Part 64 of the Code of Federal Regulations that added Section 64.1330 that reads as follows:

*16 64.1330 State Review of Payphone Entry and Exit Regulations and Public Interest Payphones.

- (a) Each state must review and remove any of its regulations applicable to payphones and payphone service providers that impose market entry or exit requirements.
- (b) Each state must ensure that access to dialtone, emergency calls, and telecommunications relay service calls for the hearing disabled is available from all payphones at no charge to the caller.
- (c) Each state must review its rules and policies to determine whether it has provided for public interest payphone consistent with applicable Commission-guidelines, evaluate whether it needs to take measures to ensure that such payphones will continue to exist in light of the Commission's implementation of Section 276 of the Communications Act, and administer and fund such programs so that such payphones are supported fairly and equitably. This review must be completed by September 20, 1998.

Keeping in mind these FCC directives, we address the following matters:

1. Rule 170 IAC 7-1.1-11(L).

Rule 170 IAC 7-1.1-11(L) requires each telephone utility to supply at least one coin-operated public telephone in each exchange that utility serves. The rule specifically states:

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(L) Public Telephone Service. (1) Each utility shall, where practicable, supply at least one (1) coin public telephone in each exchange that will be available to the public on a twenty-four (24) hour basis. This coin public telephone shall be located in a prominent location in the exchange and shall be lighted at night.

(2) Except as provided in paragraph (1) above, a utility may not be required to provide coin public telephone service at locations where revenues derived therefrom are insufficient to support the required investment unless reasonable public requirements relating to health, safety or welfare will be served. Outdoor public coin telephones should be lighted during the hours of darkness if power is available and should be located in a place which offers maximum protection from vandalism.

GTE, Sprint and Ameritech Indiana all agreed that 170 IAC 7-1.1-11(L) is a barrier to exit which the FCC's regulations require to be removed. (See 47 C.F.R. § 64.1330(a) above.) The OUCC did not disagree. Mr. Miri from Ameritech Indiana further argued that 170 IAC 7-1.1- 11(L)(2) is not competitively neutral, as it applies only to local exchange carriers and not independent payphone service providers.

After reviewing TA '96, the FCC's Payphone Order, and the parties testimony, we agree that 170 IAC 7-1.1- 11(L) is an exit barrier, and as such is no longer enforceable. We instruct our General Counsel to take the necessary steps to have this regulation deleted from our Service Standards.

2. Standing Commission COPT Orders. The Commission in its Order issued in Cause No. 38158, on November 25, 1987, permitting COPT providers to enter the public pay phone market in Indiana, set forth minimum criteria each COPT station was required to employ. Those criteria were:

1. Be registered with the Federal Communications Commission;
2. Comply with applicable federal, state, and local laws and regulations concerning the use of pay stations by disabled persons;
3. Provide Dial tone first;
4. Possess the ability to access the '0' Operator and 911 service (where available without the use of a coin or credit card ;
5. Be able to provide credit card, collect, and third-party billed long distance calls without the use of a coin;
6. Provide accessibility to all inter-exchange carriers where equal access is provided;
7. May not limit the duration of a local call;
8. Provide one local telephone directory annually;
9. Present an informal message, which may be audio or visual, in, on, or adjacent to the COPT which explains its general operation.

(Order, Cause No. 38158, 11/25/87, p. 13)

*17 The Commission's Order as to Criterion No. 9 further required the COPT payphone to clearly display procedures to be followed when requesting refunds or reporting repair problems as well as the COPT provider's name, address and pricing and instructions for receiving a refund and/or reporting service problems. (Order, Id., pp. 13-14)

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Criteria Nos. 2, 3 & 4 clearly satisfy the requirements of 47 CFR 64.1330. With regard to the remaining criteria, no testimony was presented that would justify their elimination. Because these nine criteria apply to all payphone providers we believe they are competitively neutral, do not violate TA '96 or the above FCC Regulations, and should therefore continue in effect.

8. Notice to FCC. We instruct the Secretary of the Commission to inform the FCC that this Commission has fulfilled the requirements set forth in 47 CFR 64.1330. A copy of this Order should be included.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION, that:

1. The Secretary of the Commission shall send a letter informing the FCC that this Commission has addressed public interest payphones, as required by 47 CFR 64.1330, along with a copy of this Order.
2. The Secretary of the Commission shall send a copy of this Order to all Indiana LECs (both ILECs and ALECs), to the Indiana Payphone Association, and to every Individual Payphone Provider, to the extent their identity is known.
3. All Indiana LECs, IPPs and PSPs shall comply with the Findings contained herein regarding the discontinuance of payphones, as well as the refusal of new proposed locations, as set forth in Finding Paragraph No.4 herein.
4. The Public Information Officer of this Commission shall prepare a description of this program for inclusion on the Commission's website at www.state.in.us/iurc.
5. The Consumer Affairs Division of this Commission shall follow the procedures outlined herein for receiving and processing PIP Application Forms.
6. This Order shall be effective on and after the date of its approval.

Attachment A

Definition of a Public Interest Payphone

Public Interest Payphones are essentially payphones placed at locations where a payphone is required in the interest of public health, safety, and welfare, where there would otherwise not be a payphone. Public Interest Payphones may only be provided at the request or sponsorship of government entities or agencies.

Fundamental Guidelines of a Public Interest Payphone

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1. A public interest payphone is a payphone that generally, does not 'break even', i.e. it does not yield sufficient revenue to recover the cost of its placement, ongoing maintenance, operation and reasonable contribution and therefore in a competitive market place would not normally be placed. It is important to note that unless there is a reasonable return allowed, there will be no incentive to bid on these phones.
2. There are no other coin operated (pay per use) public phones located at the same location, reasonably accessible to the general public.
3. The Public Interest Payphone is not part of a contract which provides direct monetary benefit to the location provider (i.e. the paying of commissions) from calls generated over that phone.
4. Public Interest Payphones are not coinless payphones.
5. If the payphone is located indoors, the location provider on whose property the payphone is located agrees to the placement of a prominent sign (outside and inside the facility), consistent with public ordinances, which directs the general public to the payphone location.
6. The general public should have unrestricted access to the Public Interest Payphone. Unrestricted access means that the payphone should be physically and geographically accessible to the general public during the operating hours of the facility. Thus, if the payphone is located inside a building, for example, the general public would be able to enter the building from the street to use the payphone.
7. If a Public Interest Payphone is proposed for property owned by a person or entity that has existing contracts for the placement of payphones at other locations, a demonstration should be made as to what efforts were made to contractually require placement of a payphone at the proposed Public Interest Payphone location.

Attachment B

APPLICATION FOR PUBLIC INTEREST PAYPHONE

*18 Please complete the attached application form for a public interest payphone. If you have questions regarding completion of the application form, please call the Consumer Affairs Division (1-800-851-4268). Incomplete application forms will be not be processed. Please mail the application form to: Indiana Utility Regulatory Commission Consumer Affairs Division 302 W. Washington St. Suite E306 Indianapolis, IN 46204

After the application form is received, someone may contact you with further questions. If the application form is denied, you may write a letter to the IURC and request a hearing. If the application for a public interest payphone is approved, the IURC will attempt to contact a company to provide that payphone. If no company is willing to provide the public interest payphone, we will contact you. Location Owner's Name/Title: _____ Business or Organization You Represent: _____ Phone Number: _____ Address of Requested Payphone Service: _____ Business Organization Name: _____ Contact Person at Business or Organization: _____

Name: _____
Phone: _____

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Address: ____

Type of Business: ____ Opening Date (if not open): ____ Please describe why a payphone is requested in terms of public health, safety, or welfare ____
____ Please identify the government agency who is sponsoring the location. ____

Is a low penetration rate for basic telephone service for households in the immediate area a factor in the nomination of this location for a public interest payphone?

Please circle: Yes No

If there is a payphone currently in operation at the proposed location, is it a coin-operated payphone?

Please circle: Yes No

If you are proposing a new location, will the payphone be a coin-operated payphone?

Please circle: Yes No

Will the payphone be part of a contract which provides direct monetary benefit to the location provider (i.e. the paying of commissions) from calls generated over that phone?

Please circle: Yes No If a payphone is proposed for property owned by a person or entity that has existing contracts for the placement of payphones at other locations, please explain what efforts were made to contractually require placement of a payphone at the proposed location before the application was submitted. ____

If there are other payphones on the property, is compensation paid to the owner or occupant of the property for these other payphones? Please circle: Yes No Don't Know

What are the hours the requested public interest payphone will be made available to the public?

From ____ a.m./p.m. To ____ a.m./p.m.

Please circle the days the public interest payphone will be available.

M T W T F S S

Will the payphone be indoors or outdoors?

Please circle: Indoors Outdoors If indoors, does the property owner agree to the placement of a telephone company sign, outside the property, directing the general public to the location of the payphone? Please circle Yes No If No, Why not? ____
____ Will the payphone be located at a site where those residing in that location cannot individually subscribe to their own telephone service? Please

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Circle: Yes No If yes, please explain your understanding of the reason phone service is not available to those residing in the area. ____

*19 Will the payphone be located in an area where no other payphone is readily, effectively, or reasonably accessible to the general public?

Please Circle: Yes No

What is the approximate distance of the nearest payphone, the location, and provider? ____

To your knowledge, has there been a payphone at the proposed site before? Please circle: Yes No

If Yes, who was the provider? ____

If Yes, when was the payphone removed? ____

I declare under penalty of perjury that the foregoing information is true and correct.

Signature ____ Print Name ____ Title ____

Date ____ Number where you can be reached during business hours ____

Attachment C

Report of Denial of Request for Payphone

1. Name/Address of Payphone Provider Denying Request: ____

2. Payphone Provider Contact Person: ____

3. Contact Phone Number: ____

4. Name/Address of Requesting Party: ____

5. Name/Address of Business or Organization of Requesting Party: ____

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6. Phone Number of Requesting Party: ____

7. Address for Which Payphone Was Requested (include County/Township): ____

8. Date Payphone Request Received: ____

9. Date Evaluation Completed: ____

10. Reason for Denial of Request: ____

11. If the payphone provider has a contract(s) to provide payphone service on any government-owned property in the city, county, or township listed in response to questions 4 and 5 above, please answer the following:

A. Name/Address of contracting governmental entity and/or owner of public property: ____

B. Contact Person: ____

C. Contact Phone Number: ____

D. Date current contract was executed: ____

E. Date current contract expires: ____

FOOTNOTES

FN1 In proceedings construing Section 276 of the federal Telecommunications Act of 1996 ('TA96') relating to the provision of payphone service, the FCC issued several orders addressing, in part, public interest payphones: In the Matter of Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, CC Docket No. 96-128, FCC 96-388 (released September 20, 1996) ('Payphone Order') and Order on Reconsideration, CC Docket No. 96-128, FCC 96-439 (released November 8, 1996)

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('Reconsideration Order':

FN2 Ameritech Indiana cites to the public utility commissions for the states of Iowa, Missouri, North Carolina, Oklahoma, Oregon and Texas that have decided that there is no need to establish a public interest payphone program. Upon cross-examination, Mr. Miri also indicated that the state of Illinois has reached a similar conclusion. (Tr., PIP-22)

FN3 The Report and Order in CC Docket No. 96-128 Released September 20, 1996.

END OF DOCUMENT

EXHIBIT RLK-4

9. DOCKET NO. 2002-333-C – Farmers Telephone Cooperative, Inc. – Request for Approval of Revisions to its General Subscriber Service Tariff to Increase Directory Assistance Charges. Advise the Commission of receipt of a Motion for Joinder of Party filed by Elliott Elam on behalf of the Consumer Advocate. Advise the Commission of receipt of a Return to Motion for Joinder of a Party filed by William E. DuRant, Jr., Esquire, on behalf of Farmers Telephone Cooperative, Inc. and FTC Communications, Inc. Discuss matters with the Commission.
10. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Jason Nikkel/Elizabeth Nikkel, Bowersville, GA.
11. DOCKET NO. 2002-309-C – Petition for Rule to Show Cause Request against T-ZAK Wireless, Inc. d/b/a Talk Now USA – Discuss with the Commission rescheduling this matter for hearing.
12. DOCKET NO. 2002-332-E – Mount Vernon Mills, Inc., Complainant, vs. Duke Power, Respondent. Discuss with the Commission receipt of Mount Vernon Mills' request to withdraw its pending complaint. In addition, a Stipulation of Dismissal has been filed by Thomas C. Salane, Esquire, on behalf of Mount Vernon Mills, Inc.
13. DOCKET NO. 1999-30-E - SC Electric & Gas Company - Request for approval of Extension of Large Power Service Real Time Pricing (Experimental). Discuss with the Commission SCE&G's request to extend the current Large Power Real Time Pricing Tariff (Experimental) for two additional years until January 31, 2005 and also continue its experimental status.

4. TARIFF NO. 2003-33 - Touch 1 Communications, Inc., in its SC P.S.C. Tariff No. 1, is requesting approval of Z-Line Long Distance as a new service offering. RETURN DATE HAS EXPIRED.
5. TARIFF NO. 2003-53 - Norway Telephone Company, Inc., in its General Exchange Tariff, is making revisions in response to a recent compliance audit. RETURN DATE NOT APPLICABLE.
6. DOCKET NO. 2000-464-C - Approval of an agreement between Verizon South Inc. and ITC^DeltaCom Communications, Inc. of adoption of an existing arbitrated Interconnection Agreement between AT&T Communications of the Southern States, Inc. ("AT&T") and Verizon South Inc., as filed under under Section 252(i) of the Telecommunications Act of 1996. ITC^DeltaCom was certified to offer local statewide local telecommunications services under Docket No. 1996-314-C.
7. DOCKET NO. 2000-430-C - Approval of an agreement between Verizon South Inc. and DukeNet Communications, LLC of adoption of an existing arbitrated Interconnection Agreement between AT&T Communications of the Southern States, Inc. ("AT&T") and Verizon South Inc., as filed under under Section 252(i) of the Telecommunications Act of 1996. DukeNet was certified to offer local statewide local telecommunications services under Docket No. 1998-376-C.
8. DOCKET NO. 2003-45-C - Approval of a Master Resale Agreement between Metro Teleconnect Companies, Inc. and United Telephone Company of the Carolinas. Metro Teleconnect was certified to offer local statewide local telecommunications services under Docket No. 2002-140-C.
9. DOCKET NO. 85-150-C - Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC - Discuss with the Commission receipt of the following Application for Certification:
Vista Pizza, L.L.C., Columbia, SC.

22. DOCKET NO. 2002-318-C – All-Star Acquisition Corporation – Application for a Certificate of Public Convenience and Necessity to provide Interexchange telecommunications services; and modified alternative regulation. Discuss with the Commission receipt of a request filed by Bonnie D. Shealy, Esquire, to withdraw the Application without prejudice.
23. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 2000-474 granted to James Island Christian School, Charleston, SC.
24. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Bobby Caston, Simpsonville, SC. In addition, Mr. Caston has filed a request for waiver of guidelines to allow blocking of in-coming calls.
25. DOCKET NO. 2002-302-C – Joint Application of Voicecom Telecommunications, LLC., Voicecom Telecommunications, Inc., and Premiere Communications, Inc. for approval of acquisition of assets and for assignment of authorization. Discuss with the Commission receipt of a request filed by George Rebensdorf on behalf of the Applicants for an extension of time to prefile testimony and exhibits and to reschedule the hearing currently set for March 6, 2003.
26. DOCKET NO. 2003-36-E – Progress Energy Carolinas' – Application for approval of Economic Redevelopment Rider ERD-2 to be effective on and after March 15, 2003. Discuss with the Commission receipt of an Application filed by Len S. Anthony on behalf of the Applicant.

ACTION PAGE THREE
WEEK OF APRIL 14, 2003

8. DOCKET NO. 2002-344-C – Primo Communications, Inc. – Application for a Certificate of Public Convenience and Necessity to provide Interexchange telecommunications services within the State of SC; and for Alternative Regulation. Discuss with the Commission receipt of a letter filed by Benjamin D. Ardelean on behalf of the Applicant requesting an extension of time to prefile testimony and exhibits from April 3, 2003, until April 8, 2003. In addition, testimony of Benjamin D. Ardelean has been received.
9. DOCKET NO. 2002-272-C – 3U Telecom, Inc. – Application for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services and for Alternative Regulation. Hearing held: 10:30 a.m., Wednesday, April 9, 2003. This matter is ready for final disposition.
- ~~10.~~ DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 86-1167 granted to Simon Jinks, Yemassee, SC.
- ~~11.~~ DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 2000-391 granted to Pizza of Laurens, Greenwood, SC.
12. DOCKET NO. 2003-2-E – South Carolina Electric & Gas Company – Annual Review of Base Rates for Fuel Costs. Discuss with the Commission Staff's request for a 1-day extension for Staff and all other parties to prefile testimony and exhibits from April 9, 2003, to April 10, 2003. In addition, discuss a request for a 1-day extension to file Rebuttal testimony from April 16, 2003, to April 17, 2003.

ACTION PAGE FOUR
WEEK OF APRIL 21, 2003

14. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 98-507 granted to Little River Swim & Fitness Club, Little River, SC.

15. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 95-1689 granted to David McLaurin, Charleston, SC.

16. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 90-1182 granted to Charles T. Van DeMark, Myrtle Beach, SC.

17. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 2001-0016 granted to Quickmat Coin Laundry, Sumter, SC.

18. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 1999-66 granted to Debra R. Harrison, Woodruff, SC.

ACTION PAGE FIVE
WEEK OF APRIL 21, 2003

19. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 1988-1009 granted to L&M Self Service, Lake City, SC.
20. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 98-886 granted to Pelican Communications, Inc., Ladson, SC.
21. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 90-085 granted to Ansa Khan, Santee, SC.
22. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 96-445 granted to Thomas Arthur Farr, Atlantic, VA.
23. DOCKET NO. 2003-109-E – Duke Power – Petition for approval of the transfer of property in Greenville, SC. Discuss this matter with the Commission.

ACTION PAGE FIVE
WEEK OF APRIL 28, 2003

16. DOCKET NO. 2003-19-C – Unified Messaging Services, Inc. d/b/a Single Source, Inc. – Application for a Certificate of Public Convenience and Necessity to provide resold and facilities-based Local Exchange telecommunications services and long distance telecommunications services within the State of SC; and for Flexible Regulation and Alternative Regulation. Discuss with the Commission receipt of a letter filed by Bonnie D. Shealy, Esquire, on behalf of the Applicant, requesting to withdraw its application without prejudice.
17. DOCKET NO. 2003-18-C – Alticomm, Inc. - Application for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services and for Flexible Regulation of its Local Exchange Service. Hearing held: 11:30 a.m., Thursday, April 24, 2003. This matter is ready for final disposition.
18. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 89-752 granted to Willard Rhymer, Bucksport, SC. (District 1)
19. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 92-37 granted to Helms Vista Motel, Myrtle Beach, SC. (District 1)
20. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 94-732 granted to Sun Coast Communications, Inc., Myrtle Beach, SC. (District 1)

ACTION PAGE SIX
WEEK OF APRIL 28, 2003

21. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 88-558 granted to Cola Bryant d/b/a Mr. Telephone, Orangeburg, SC. (District 6)
22. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 98-744 granted to East Coast Payphones, Charlotte, NC. (District At-Large)
23. DOCKET NO. 2002-57-EC – Mr. and Mrs. James Tarmann, Complainant, vs. Duke Power, BellSouth, and the Public Service Commission Staff, Respondents. Hearing held: April 10, 2003. This matter is ready for final disposition.
24. DOCKET NO. 2003-2-E – SCE&G – Annual Review of Base Rates for Fuel Costs. Hearing held: April 23, 2003. This matter is ready for final disposition.
25. DOCKET NO. 2003-36-S – Scenic Lake Park WWTP – Application for authority to increase its rates and charges for sewer services in Sumter County. Discuss with the Commission receipt of a request filed by Eddie Richardson, Owner of Scenic Lake Park WWTP, for an eight-day extension (from April 16, 2003 to April 24, 2003) to prefile testimony and exhibits. In addition, testimony of Eddie Richardson has been received.

ACTION PAGE TWO
WEEK OF MAY 5, 2003

3. DOCKET NO. 2003-147-C - Approval of a Resale Agreement between ALLTEL South Carolina, Inc. and Flatel, Inc. that has been negotiated and filed pursuant to terms of the Telecommunications Act of 1996. This filing includes rates, terms and conditions concerning the resale of ALLTEL's services so as to enable Flatel to provide local telecommunications services. Flatel, Inc. was certified to offer local statewide local telecommunications services under Docket No. 1999-515-C.
4. DOCKET NO. 2002-392-C – Global Communications Consulting Corp. – Application for a Certificate of Public Convenience and Necessity to Operate as a Reseller of Interexchange Telecommunications Services and for Modified Alternative Regulation. Hearing held: 11:30 a.m., Wednesday, April 30, 2003. This matter is ready for final disposition.
5. DOCKET NO. 2002-344-C – Primo Communications, Inc. – Application for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services and for Alternative Regulation. Hearing held: 10:30 a.m., Thursday, May 1, 2003. This matter is ready for final disposition.
6. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 93-446 granted to Joseph T. Hardee, Gilbert, SC. (District 2).
7. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 88-459 granted to Jimmy's Tackle Shop, St. Stephen, SC. (District 6)

ACTION PAGE THREE
WEEK OF MAY 5, 2003

8. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 95-1687 granted to Thomas Self, Trenton, SC. (District 3)
9. DOCKET NO. 1999-036-C - Promise-Net International, Ltd. - Application for a Certificate of Public Convenience and Necessity to provide intrastate resold telecommunications services and for Alternative Regulation. Discuss with the Commission receipt of a letter filed by Andrew O. Isar on behalf of the Company requesting to cancel their Certificate. As of December 31, 2002, all SC customers were migrated to their alternative carrier of choice.
10. DOCKET NO. 2000-168-C – Structus TeleSystems, Inc. – Application for a Certificate of Public Convenience and Necessity to provide Local Exchange and Interexchange telecommunications services in the State of SC and for Flexible and Alternative Regulation. Discuss with the Commission receipt of a letter filed by Al Miller, Chief Operating Officer of the Company requesting to cancel their Certificate. There are no SC customers to be affected.
11. DOCKET NO. 2003-140-E – Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. – Application for authority to issue and sell additional securities (Long-Term Debt). Discuss with the Commission receipt of an Application filed by Len S. Anthony on behalf of the Applicant.
12. DOCKET NO. 89-230-E/G - Investigation of Property Transfers from SCE&G to SCANA – Advise Commission of receipt of SCE&G's notification that it plans to transfer real estate located in Jasper County, SC, to the Beaufort-Jasper Water and Sewer Authority. Discuss with the Commission a request filed by SCE&G to waive the requirement pursuant to Commission Order No. 92-931 of the 30-day public notice of the availability of the property for public sale.

ACTION PAGE THREE
WEEK OF MAY 12, 2003


9. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 2001-445 granted to Dean W. Wood, Mt. Pleasant, SC. (District 1)
10. DOCKET NO. 2003-3-E – Duke Power – Annual Review of Base Rates for Fuel Costs. Discuss with the Commission receipt of a request filed by the Commission Staff for a one-day extension of time, until May 8, 2003, to prefile testimony and exhibits.
11. DOCKET NO. 2002-342-W – Ralph's MHP Water System – Application requesting approval to abandon water system in Eastover, SC. Hearing was held on April 8, 2003. This matter is ready for disposition.
12. DOCKET NO. 2003-41-S – Moore Sewer, Inc. – Application for adjustment of rates and charges for provision of sewer collection. Request by Company to reschedule hearing scheduled for May 29, 2003. Request by Staff to modify prefiling dates for testimony and exhibits. Discuss with the Commission.

ACTION PAGE THREE
WEEK OF MAY 26, 2003

8. DOCKET NO. 2003-113-C – VarTec Telecom, Inc. – Application for approval of Flexible Regulation of their Local Exchange services tariff filings. Return Date has expired with no intervention. Discuss this matter with the Commission.

9. DOCKET NO. 2002-124-C – ACN Communication Services, Inc. – Application for approval of Alternative Regulation of its Interexchange business type services. Return Date has expired with no intervention. Discuss this matter with the Commission.

10. DOCKET NO. 2003-52-C – Teleglobe USA Inc. and Teleglobe USA LLC – Application for approval of assignment of assets and issuance/transfer of Certificate of Public Convenience and Necessity and related transactions and for Alternate Regulation. *Discuss with the Commission receipt of a Motion for Expedited Review filed by Faye A. Flowers, Esquire, on behalf of the Applicants. In addition, we have received Verified Testimony of Charles Tievsky, Assistant General Counsel of Teleglobe USA Inc. and Teleglobe USA LLC.*

-  DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: COBO Phone Enterprises, Greenville, SC. (District 4)

12. DOCKET NO. 2003-3-E – Duke Power – Annual Review of Base Rates for Fuel Costs. Advise Commission of receipt of a Stipulation entered into between Duke Power and the Consumer Advocate. Hearing held: May 21, 2003. This matter is ready for final disposition.

ACTION PAGE EIGHT
WEEK OF JUNE 16, 2003

29. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Cen-Tex Pay Telephone Co., San Antonio, Texas (District At-Large).

30. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 97-442 granted to National Telephone Company, Atlanta, Georgia (District At-Large)

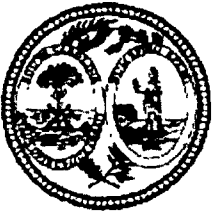
31. DOCKET NO. 2003-103-C – Lockhart Telephone Company – Application for approval of extraordinary retirement of Digital Central Office Switching Equipment. Discuss this matter with the Commission.

32. DOCKET NO. 2002-416-C – Generic Proceeding to review requirements for Competitive Local Exchange Carriers providing prepaid local exchange. Discuss with the Commission receipt of a Motion for Order Allowing Filing of Reply Testimony by Intervenor, National ALEC Association/Prepaid Communications Association. In addition, Aspire Telecom, Inc., the SC Telephone Coalition, and BellSouth have also filed similar requests.

33. DOCKET NO. 2003-184-E – Duke Energy Corp. – Application for authorization under Article 13, Chapter 27 of Title 58 of the Code of Laws of SC, 1976, to issue an sell securities. Discuss with the Commission receipt of an Application filed by Robert T. Lucas, III, Esquire, and William F. Austin, Esquire, on behalf of the Applicant.

ACTION PAGE SIX
WEEK OF JUNE 30, 2003

23. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Rain Tree Motel Corp., Myrtle Beach, SC (District 1).
24. DOCKET NO. 98-150-C – Choctaw Communications, Inc.d/b/a Smoke Signal Communications - Application for a Certificate of Public Convenience and Necessity to provide both Local Exchange and Long Distance Telecommunications Services within the State of SC. Discuss with the Commission receipt of a request filed by E. B. “Tommy” Thomas, President to cancel their Certificate. Company has no customers in SC; therefore, no revenue for the year ending 2002.
25. DOCKET NO. 2003-157-C – George Haynie, Complainant, vs. MCI WorldCom, Respondent – Discuss with the Commission receipt of a Notice and Motion to Make More Definite Statement or to Dismiss filed by Darra W. Cothran, Esquire, on behalf of MCI.
26. DOCKET NO. 1999-177-C - CenturyTel Long Distance, Inc. - Application for a Certificate of Public Convenience and Necessity to provide intrastate resold telecommunications services within the State of SC. Discuss with the Commission a request filed by Thomas M. Forte, Consultant to the Company, to cancel their Certificate and withdraw its tariff. Company does not have any SC customers; and they have ceased operations in the State.
27. DOCKET NO. 2003-128-E – South Carolina Electric & Gas Company – Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity for the construction and operation of the Yemassee Transmission Line. Hearing held: June 26, 2003. This matter is ready for final disposition.



The Public Service Commission State of South Carolina

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COMMISSIONERS
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Posted: 07/11/03 12:00PM pao

Session: _____

UTILITIES DEPARTMENT AGENDA

WEEK OF JULY 14, 2003

The Commission's regularly scheduled meeting will be held each Tuesday in the Commission's conference room at 10:30 a.m. or as soon thereafter as any hearing which may be set on the morning thereof is concluded. Information concerning the date, time and place of any special, rescheduled or called meeting will be posted on the Commission's bulletin board at its offices, Synergy Business Park, 101 Executive Center Drive, Columbia, South Carolina, as early as is practicable but not later than twenty-four hours before the meeting.

COMMISSION ACTION ON THE FOLLOWING ITEMS:

1. TARIFF NO. 2003-245 - Qwest Communications Corporation in its South Carolina Tariff No. 1 is introducing Qwest Unlimited Calling Plan as a new offering. RETURN DATE HAS EXPIRED

2. TARIFF NO. 2003-256 - AT&T of the Southern States, LLC, in its General Services Tariff, is grandfathering its AT&T 7cent Offer Plan and referencing the specific URL to the internet Pricing Guide for AT&T Green VII Plan. RETURN DATE HAS EXPIRED

3. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Sandra Y. McCollum, Greenwood, SC. (District 3).

ACTION PAGE TWO
WEEK OF AUGUST 4, 2003

4. DOCKET NO. 2003-224-C – XO Long Distance Services, Inc. – Application for a Certificate of Public Convenience and Necessity to expand its telecommunications authority to include Competitive Resold and Facilities-Based Local Exchange Services within the State of SC and for Flexible Regulation of its service offerings. Advise Commission of receipt of an Application filed by Faye A. Flowers, Esquire, on behalf of the Applicant. Order needed establishing deadlines for prefilng testimony and exhibits.

5. DOCKET NO. 2003-226-C – Telecon Communications Corp. – Application for a Certificate of Public Convenience and Necessity to provide Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Services within the State of SC, and for Flexible Regulation of its Local Exchange Services, and for Modified Alternative Regulation of its Interexchange Services. Advise Commission of receipt of an Application filed by John J. Pringle, Jr., Esquire, on behalf of the Applicant. Order needed establishing deadlines for prefilng testimony and exhibits.

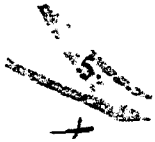
6. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Combined Public Communications, Cincinnati, OH (District At-Large).

7. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Gary G. Strickland, Mullins, SC (District 6).

8. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 86-184 granted to Beverly's Homestyle Laundromat, N. Charleston, SC (District 1)

ACTION PAGE TWO
WEEK OF AUGUST 11, 2003

4. DOCKET NO. 2003-242-C - Approval of a Resale and Interconnection Agreement that has been negotiated between Verizon South and Connect Now! Telecommunications. This filing contains rates, terms and conditions concerning the interconnection of the companies' facilities and resale of Verizon's services so as to enable Connect Now! to offer local telecommunications services. Connect Now! Telecommunications was certified to offer statewide local telecommunications services under Docket No. 2003-95-C.

 DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Jim & Peggy's Social Club, Inc., Westminster, SC. (District #3)

6. DOCKET NO. 2002-192-E – South Carolina Electric & Gas Company, Complainant, vs. Palmetto Electric Cooperative, Inc., Respondent. Discuss with the Commission receipt of Palmetto Electric Cooperative's Motion to Supplement Exhibits.
7. DOCKET NO. 2003-220-E – Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. – Application for approval of Optional Meter-Related Programs. Discuss with the Commission receipt of an Application filed by Len S. Anthony on behalf of the Applicant.
8. DOCKET NO. 2003-7-W– Dowd Water Systems, Inc. – Application for approval of meter-based distribution fees for Stephenson Lakes Water System. Hearing was held on August 6, 2003. This matter is ready for disposition.

ACTION PAGE TWO
WEEK OF SEPTEMBER 15, 2003

4. TARIFF NO. 2003-376 - Excel Telecommunications, Inc., in its South Carolina P.S.C. Tariff No.2, is making rate changes in accordance with Commission Order No. 84-622 in Docket No. 84-10-C. The affected service is the Company's Employee Long Distance Service Program. RETURN DATE NOT APPLICABLE.

5. DOCKET NO. 2000-489-C - T-NETIX Internet Services, Inc. - Application for a Certificate of Public Convenience and Necessity to operate as a reseller of Interexchange telecommunications services within the State of SC. Discuss with the Commission receipt of a letter filed by Robin Norton, Consultant to T-NETIX, requesting the immediate cancellation of its Certificate and withdrawal of its tariff.

6. DOCKET NO. 85-150-C - Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC - Discuss with the Commission receipt of the following Application for Certification: Laundry Mart of Georgetown LLC, 221 Old Augusta Drive, Pawleys Island, SC 29585 (District #1)

7. DOCKET NO. 85-150-C - Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC - Discuss with the Commission receipt of the following Application for Certification: ASP Communications, P.O. Box 581, Commerce, GA 30529 (At-Large)

8. DOCKET NO. 2001-431-C - Power-Finder West Communications, LLC. - Application for a Certificate of Public Convenience and Necessity to provide resold Interexchange telecommunications services within the State of SC; and for Alternative Regulation. Discuss with the Commission receipt of a letter filed by Winafred Brantl, Esquire, requesting to withdraw the pending application.

ACTION PAGE THREE
WEEK OF SEPTEMBER 22, 2003

8. DOCKET NO. 2003-270-C – Palmetto Telephone Communications, LLC. – Application for a Certificate of Public Convenience and Necessity to provide Local Exchange and Exchange Access Service to customers located in certain areas currently being served by Verizon South, Inc. and Request for Flexible Regulation of Local Exchange Service Offerings. Advise Commission of receipt of an Application filed by Margaret M. Fox, Esquire, on behalf of the Applicant. Order needed establishing deadlines for prefilings testimony and exhibits.
9. DOCKET NO. 2003-21-C – Better World Telecom, Inc. – Application for a Certificate of Public Convenience and Necessity to operate as a reseller of intrastate Interexchange telecommunications services within the State of SC. Discuss with the Commission receipt of a letter filed by James F. Kenefick, President of Better World Telecom, Inc. requesting a continuance of the hearing scheduled for September 24, 2003. In addition, Company is requesting modification of prefilings deadlines.
10. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: International Payphone Corporation, 726 E. Long Avenue, New Castle, PA 16101 (At-Large)
11. DOCKET NO. 2003-133-C – OneLink Communications, Inc. – Application for a Certificate of Public Convenience and Necessity to Resell Intrastate Telecommunications Services. HEARING HELD: 11:30 a.m., Thursday, September 4, 2003. Advise the Commission of receipt of Late Filed Exhibit. This matter is ready for final disposition.

ACTION PAGE TWO
WEEK OF OCTOBER 6, 2003

3. DOCKET NO. 2003-282-C - Request for approval of a Master Interconnection, Collocation and Resale Agreement between United Telephone Company of the Carolinas and Tel West Communications, LLC. This filing contains rates, terms and conditions concerning the interconnection of the companies' facilities and resale (9.78% wholesale discount) of United's services so as to enable Tel West to provide local telecommunications services. Tel West Communications (f/k/a Hart Communications) was certified to offer statewide local telecommunications services under Docket No. 1997-230-C.

4. DOCKET NO. 2003-221-C – Rufus Watson, Bay Meadows Homeowners Association, Complainant, vs. Horry Telephone Cooperative, Inc., Respondent. Discuss with the Commission receipt of Rufus S. Watson's Motion for Judgment on the Pleadings. In addition, Horry Telephone Cooperative has filed a response to the Motion.

5. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Hunter Communication, 125 Candy Cane Lane, Lexington, SC 29072 (District 2)

6. DOCKET NO. 2003-290-C – TSI Telecommunications Network Services, Inc. – Application for a Certificate of Public Convenience and Necessity to provide resold private line services in the State of SC. Advise Commission of receipt of an Application filed by David J. Robinson on behalf of the Applicant. Order needed establishing deadlines for prefilng testimony and exhibits.

7. DOCKET NO. 2003-291-C – Sail Networks, Inc. – Application for a Certificate of Public Convenience and Necessity to provide Facilities-Based/UNE-P Local Exchange telecommunications services in the State of SC; and for Flexible Regulation. Advise Commission of receipt of an Application filed by Scott Elliott, Esquire, on behalf of the Applicant. Order needed establishing deadlines for prefilng testimony and exhibits.

ACTION PAGE SIX
WEEK OF NOVEMBER 24, 2003

20. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of SC – Discuss with the Commission receipt of the following Application for Certification: Evercom Systems, Inc., 8201 Tristar Drive, Irving, Texas 75063 (District At-Large)

21. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 96-737 granted to Sloppee's, Inc., Taylors, SC (District 4)

22. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 1999-391 granted to Dino's Clock Family Restaurant, Greenville, SC (District 4)

23. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to operate in the State of SC – Discuss with the Commission receipt of a request to cancel Certificate (Order) No. 92-483 granted to Great Games, Inc., Chapin, SC (District 2)

24. DOCKET NO. 2000-287-C – Gulf Coast Communications, Inc. – Application for a Certificate of Public Convenience and Necessity to provide Local telecommunications services statewide. Discuss with the Commission receipt of a request filed by Christopher P. Bovert on behalf of the Company to cancel their Certificate. No business was ever conducted in SC; therefore, no SC customers will be affected.

EXHIBIT RLK-5



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130-4260

JIM SULLIVAN, PRESIDENT
JAN COOK, ASSOCIATE COMMISSIONER
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

BellSouth Public Communications, Inc.,
Applicant

**APPLICATION: To divest assets and
abandon operations.**

DOCKET 25737

ORDER

BY THE COMMISSION:

By filing of July 28, 2003, BellSouth Public Communications, Inc. ("BSPC") notified the Commission of its intention to divest itself of its assets and cease operations at or near the end of the first quarter of 2004. BSPC is a corporation in the State of Georgia and is a wholly owned subsidiary of BellSouth Telecommunications, Inc. ("BellSouth").

BSPC obtained its Certificate of Public Convenience and Necessity to provide Intrastate Telecommunications Service from the Commission on March 3, 1997 in Docket 25737 and began its operations on April 1, 1997. In order to divest its assets, BSPC is selling some of its payphones that are in place to other payphone service providers or to location providers after de-branding all equipment. Additionally, BSPC is selling some of its payphones in bulk to other equipment providers. BSPC intends to transfer support type equipment and assets to BellSouth on an as needed basis and in full compliance with established affiliate transaction rules.

BSPC asserts that its decision to exit the competitive payphone marketplace in Alabama will have no adverse effect on any other payphone service provider's ability to order access lines. BSPC represents that payphone providers can attach their payphone sets and other

DOCKET 25737 - #2

customer premises equipment to the various local exchange networks in order to provide payphone service to the public.

We have considered BSPC's request to divest its assets and cease its operations in Alabama. We find said request to be consistent with the public interest, convenience and necessity.

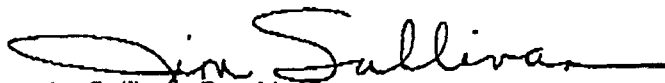
IT IS, THEREFORE, ORDERED BY THE COMMISSION, That BellSouth Public Communications, Inc. is hereby authorized to divest its assets and cease its Alabama operations pursuant to the terms and conditions discussed above.

IT IS FURTHER ORDERED, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premises.

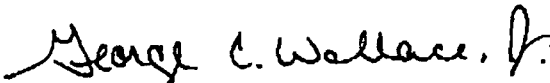
IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 20th day of November, 2003.

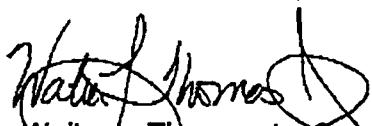
ALABAMA PUBLIC SERVICE COMMISSION


Jim Sullivan, President


Jan Cook, Commissioner


George C. Wallace, Jr., Commissioner

ATTEST: A True Copy


Walter L. Thomas, Jr., Secretary

STATE OF SOUTH CAROLINA)	
)	CERTIFICATE OF SERVICE
COUNTY OF RICHLAND)	

The undersigned, Carl Bell, hereby certifies that he is employed by the law firm of Richardson, Plowden, Carpenter & Robinson and that he has caused BellSouth Public Communications, Inc.'s Motion for Expedited Review in Docket No. 2003-77-C to be served upon the following this December 11, 2003:

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Carl Bell